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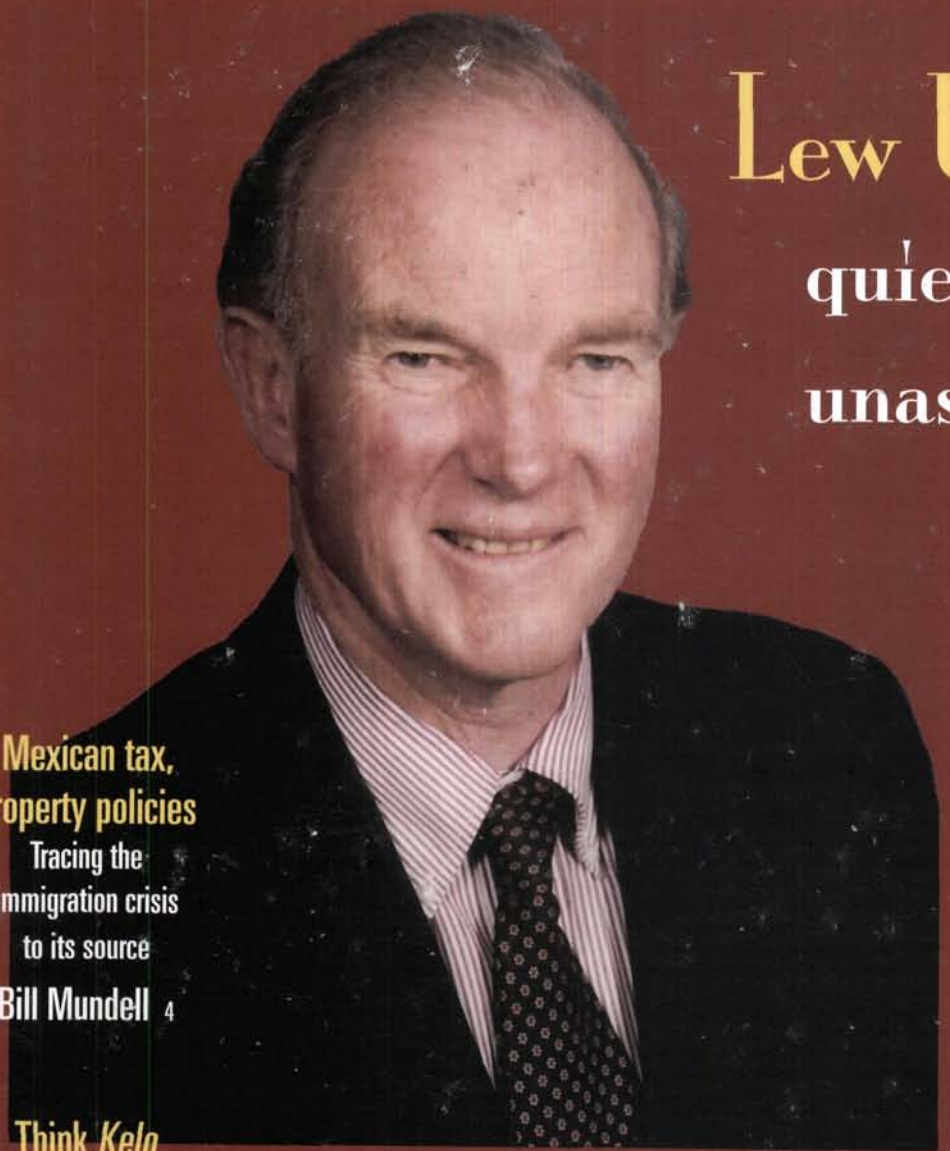

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A PUBLICATION OF THE
CALIFORNIA PUBLIC POLICY FOUNDATION

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CORRESPONDENCE

Big labor's battering rams

In "Big labor's political battering rams" (by Sam Paredes, *CPR*, July/Aug.), I notice the ease of conscience with which unions take workers' money without permission. Most Americans are raised with the idea that our self-governing rights (endowed on us by God, not man — although one suspects this essential Jeffersonian refinement is less and less transmitted to new generations) begin with our freedom and responsibility to make our own well-informed decisions when voting and, by obvious extension, when we contribute to politics. I know plenty of short-sighted and/or unscrupulous men exist in any walk of life who, given the chance, would trick or force others into supporting candidates they would not favor on their own. But that sort of activity — were it tried by anyone but a union — is widely seen as corrupt, and would, therefore, be kept hidden.

But these union folks, seemingly right down to most members, appear to consider it perfectly natural, even virtuous, that they be herded together to have their pockets picked to send money to candidates and causes favored by a tiny cabal at the top of the structure. Where's Jimminy Cricket when we need him?

James Perkins
Eureka

Not "most members": polls show half of union workers back paycheck protection.
— editor

Which UW, if you please?

What would graduates of other universities in the UC system think if everything associated with UCLA was reported as associated with "the University of California," as if there were only one? Would not the alumni of UC-Davis get angry? Would not those of UC-Santa Barbara be outraged? Would not those of UC-Berkeley feel insulted?

There are a dozen universities in the University of Wisconsin System (as well as a dozen extensions), but only one has a nationally televised football team, and, being the venue of the UW System's Board of Regents, the one that gets all the gravy. I am a graduate of the older (and I dare say better) University of Wisconsin — *Platteville* (1980). While I applaud the findings and work of Scott Adams as reported by William E. Simon, Jr., ("Business Trends" — "The Democrats' vision for business," *CPR*, July/Aug., 2005), I must ask Mr. Simon, "*Which* University of Wisconsin? The one in *Madison?* The Berkeley of Wisconsin?"

I used to call the University of Wisconsin — *Madison* the Berkeley of the Midwest, but then in 1985 I got my MBA from the University of Michigan (I think there is only one of those, in Ann Arbor). Imagine studying *business* in a university where the food service employees are *still* represented by the IWW (the Wobblies). Somebody call the Pinkertons!

Norman Hines
Ridgecrest

The reference to Assistant Professor Scott Adams came originally from an article by Sacramento Bee *columnist Daniel Weintraub that did not specify the UW university at which Professor Adams spends his working days. However, a quick inquiry through Google for "Scott Adams" and "University of Wisconsin" elicits the information that Professor Adams works at the University of Wisconsin — Milwaukee. Incidentally, per: http://www.uwm.edu/Dept/Economics/faculty/adams.html, he earned both his M.A. and Ph.D. degrees in nearby Michigan — although at Michigan State University, not U-M.*
— editor

CPR

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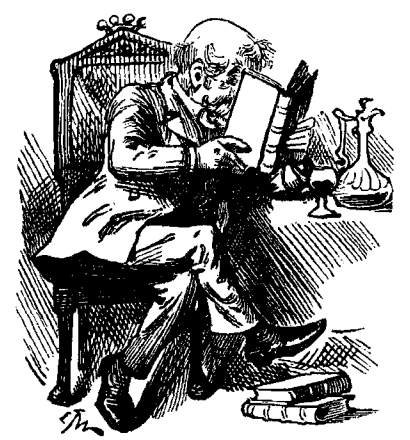
SACRAMENTO SPECTATOR

Your *Spectator* is optimistic by nature — how else could I bear my daily regimen: eavesdropping in the halls and dreadful cafeterias of the Capitol, the nightly grind of fund-raisers and ever-so-chic soirèes? But bear up I have. And what I've found — besides wholesalers of Mylanta and Gaviscon for myself — is an eerie "mirror world" of what I would expect, given poll numbers for the governor and his propositions falling like a poorly made soufflè while the media reports the unthinkable: Gov. Cashinator facing a cash crunch in several committees. Yet the mood is upbeat and energetic among Republicans; tense and on-edge among Democrats.

One reason is that despite the governor's poor numbers, Proposition 75 — "paycheck protection" — maintains solid leads in all surveys. Prop. 75 is viewed by many — including me — as the most important ballot measure. Its passage would castrate the Democrat money machine. Is it a coincidence that it is not one of "the governor's" propositions, that he has not endorsed it, and it is polling so strongly? I don't know, or care. What matters is that 75 has a head of steam behind it, and this worries the Donkey party minions greatly.

The other factor contributing to GOP bounciness and Democrat edginess is the commonly-shared feeling that, for all the governor's current woes, he still is the guy elected in a landslide two years ago — that the "champ" is the champ until dethroned. Despite Democrat "rent-a-mobs" shadowing his travels, booing him at baseball games, Schwarzenegger, besides remaining champ, is still a man of great intelligence, perseverance, and ingenuity. And he hates to lose — at anything.

So this powers GOP optimism and Democrat angst about a revived, energized Schwarzenegger mounting a post-Labor Day blitz, breaking the union-financed smear campaign, reconnecting with the public, and sweeping all before him, as he did in the recall.



The Democrat nightmare scenario sees passage not only of Proposition 75 but also of 77: redistricting reform. This could produce a Democrat nuclear winter lasting decades. But for that to happen, the governor and his very well paid consultants are going to have to get their act together — and soon. This is written in late August; by the time you read this it should be apparent whether or not Team Schwarzenegger is able to generate some — any — momentum.

Let Schwarzenegger be Schwarzenegger. His bipartisan gambit ended predictably: the Democrats (and their media allies) weren't satisfied and never stopped savaging him. Get back to the *persona* that won the recall: the action-hero riding into Sacramento to drain the swamp.

But whether the governor's folks get it together or not, the state GOP's money apparatus must — repeat *must* — fund "paycheck protection." This proposition appears at the moment to be an orphan. The measure likely to benefit the GOP most, the one leading all surveys (even among Democrats and enjoying 50 percent support in union households) finds no major sponsors.

The unions will leave no stone unturned to defeat it. They know their days of blackmailing political dollars from their members are over if this passes. The state GOP and it's financiers would be guilty of gross negligence and malfeasance if they allow Prop. 75 to lose its lead for lack of funds. Perhaps the "New Majority" might divert a few million from helping former Clinton backers in GOP primaries over toward passing Prop. 75. Okay, that's a snarky comment — but true. Labor Day to election day: always fun, but usually a bumpy ride.

— A.P.C.

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Business Trends

Mexico's tax, property policies propel its people north

True solutions for immigration are neither within our borders nor under our exclusive control.

BILL MUNDELL

IMMIGRATION REFORM has once again surfaced as a front-burner issue for our policy makers. Recently, Arizona and New Mexico declared "States of Emergency" due to the effects of each state's massive influx of undocumented aliens. The growing concern about the problem has led citizens to support stop-gap measures such as volunteer "minutemen." One thing is clear — trying to seal physically 2000 miles of border is impossible in the current environment.

Even if government applied the manpower needed to monitor the border adequately, it would not stop the efforts of people seeking a better life. China — a country with significantly less regard for liberty and human rights than the United States — has been unable to prevent more than 300,000 North Korean citizens from fleeing privation in their country. And that border is only 750 miles long. The increase of border security manpower is a band-aid at best because true solutions to the immigration problem are neither within our borders nor under our exclusive control.

Mexico is and should be the primary focus in this debate because the overwhelming majority of illegal migrants come from Mexico. While people from Central America are crossing as well, the task is more difficult as illegal entry into the United States is predicated on entry first into Mexico, and Mexico is much tougher at enforcing her border and immigration laws than is the United States.

Migrants come north due to the vitality of the U.S. economy. Stronger economies in Mexico and Central and South America not only could stop this immigration north; it could even reverse it — as happened briefly, shortly after the signing of the NAFTA treaty. Economic stagnation in Latin America creates the momentum that drives the population of these countries to look for better opportunities elsewhere. A recent study by the PEW Hispanic Center found 47 percent of the adult population of Mexico would like to migrate to the United States. These people include more than just the poor or unemployed; the poll found the highest numbers wanting to emigrate here among 18-to-25 year olds and the college educated — not surprising when one considers the following:

Mexico's tax rates punish its poorest workers, making U.S. taxes appear benevolent by comparison.* Mexico's top tax rate of 33 percent kicks in at about $20,000 per year. The top U.S. rate is 39 percent, but does not kick in until income reaches $264,000 per year. Mexican workers earning only $4,114 pay 10 percent federal income taxes; those earning $7,230 pay 25 percent. That is in addition to state and local taxes, plus a federal VAT tax of 15 percent! It adds up to great difficulty for Mexican workers trying to save capital.

WHEN MEXICANS are able to save money, they often find it prudent to send their capital north to avoid confiscation at home. That's because, although Mexico's federal constitution guarantees peas-

Bill Mundell is chairman and chief executive officer of Vidyah, Inc., a leading private U.S. educational organization, and chairman of International Knowledge Measurement (IKM), a knowledge assessment company. Concerned about disenfranchised California voters in the 2004 election, Mr. Mundell formed Californians For Fair Redistricting last March to promote redistricting reform for California.

* *Journal of Polyeconomics,* August 2005.

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ants free land, the government threatens and often tramples real property rights. A "Takings" clause like that found in the U.S. Constitution's Fifth Amendment would serve Mexicans much better than the free land guarantee.

The implementation of a solid economic reform plan focused on expanding Mexico's free market would increase the country's standard of living by creating jobs and, thereby, reduce the pressure on Mexican citizens to emigrate to the United States.

ECONOMIC REFORM in Mexico could be a boon to the United States in other ways as well. Mexico is the one country (besides the United States) where citizens once owned the subsurface rights to minerals. The state, however, took those rights during the 1917 revolution. PEMEX (Mexico's socialist oil monopoly) drills only a handful of wells every year: 350 on average, compared to a 20-year U.S. average of about 24,000 per year. If the government announced that all mineral rights would belong to the people, American wildcatters, who know the business, would flock to Mexico making deals with farmers and ranchers, as they have been doing for 150 years in this country. Mexico might soon have reserves rivaling Saudi Arabia.

These political ideas are compelling and should be pursued practically in discussions between U.S. officials and our Mexican government friends. Next year's Mexican presidential election is already generating campaigning, beginning in, of all places, California. Both major candidates plan to jumpstart their campaign tours here. This Mexican election offers a unique window to exert American influence to transform Mexico for the good. In the same way that Mexican candidates will be campaigning here in the United States for votes, we must campaign in Mexico for change. Far too much time is spent in this country scapegoating illegal immigrants when our energies should be spent making their leaders accountable.

WHAT YOU HAVEN'T BEEN TOLD ABOUT GUN CONTROL

By SAM PAREDES

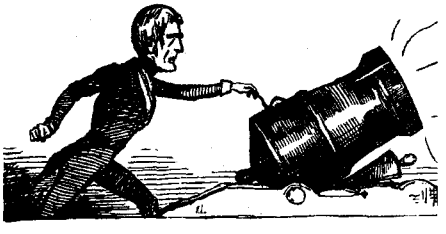
Where are the firing pins, Mr. Koretz? It's been three months since you promised to withdraw your bullet-marking-firing-pins bill if a way to thwart its technology could be demonstrated.

Plenty of people are ready to so demonstrate, but no one has seen a firing pin. You don't supply any. You don't explain why you don't or say when you will. This is a bad bill, pure harassment of law-abiding citizens and gun makers with no real benefit for anyone. You asked us to prove that. We're ready to prove it. So where are the pins?

The forgoing is, of course, a rhetorical exercise. Mr. Koretz showed long ago that he isn't listening. For the record, though, on June 2, 2005, Assemblyman Paul Koretz, author of AB 352, which calls for microstamp etching on the tips of semi-automatic handgun firing pins, said the following on the Assembly floor:

"... in fact, I'm willing to put this bill to a challenge if it passes off the floor today — I'm willing to challenge [Assemblyman Jay] La Suer [R-La Mesa] to take a gun with this technology and a file — if he is able to remove the print on it and then still fire the gun, I will withdraw this bill ...."

Koretz' microstamp etching would mark the primer of each spent shell with the make, model, and serial number of the gun that fired the round. No one denies this can be done. The problem is that the firing pins can be filed down by anyone from a criminal to a 12-year-old. Then — no etching, no serial number, no nothing. The bill's opponents said so, and Koretz huffed and puffed his challenge in response. Loose lips sink ships, as the navy used to say; and one supposes Mr. Koretz decided he wouldn't let his loose-lipped challenge sink his bill, though it would be best for California if it did.



We'll stop holding our breath waiting for the Koretz firing pins. Instead, perhaps Mr. Koretz would consider taking up a challenge from us: stop defending your anti-gun legislation by lying on the assembly floor and try finding an honest way to explain why anyone in California should want to see it pass. At least that challenge has the attraction of actually being a challenge. CPR

Sam Paredes is executive director of Gun Owners of California.

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A plan to reduce incentives to come to the United States illegally should embrace not just reform in Mexico, but also address the immediate concerns about immigration here at home. The sheer numbers of the thousands entering daily from Mexico seeking work cripple effective border security not only against illegal entry of those seeking a better life but also of people who threaten homeland security. Regularizing economically motivated migration will mean much more effective anti-terrorism border policing. "Regularized" migration would permit workers to enter under regulated conditions. U.S. markets are already accommodating illegal workers through the self-interested hiring decisions of many Americans. This is an important signal that the migrants ought to be lawful. Unless the government has a compelling reason to do otherwise, it should validate the decisions of our citizens rather than nullify or criminalize them. Otherwise it will make many American citizens, as well as the migrants, lawbreakers.

MEXICO HAS all the natural variables needed for a thriving economy: a massive labor pool, natural resources, and proximity to markets. What's needed is political change, implementing the type of tax reform this country saw in the 1980s. That could stimulate Mexican economic growth equalling or surpassing what China has achieved. Were Mexico to cede mineral rights to land owners (rather than claim them as federal property), the Mexican people could prosper as never before in history by mining and producing the oil and other resources needed in world markets. Most importantly, we would once again have a solvable border problem, enhancing our security and economic well-being without compromising our character. CPR

The Working Press

Even lefties deflated by Kinsley tenure at the *LA Times*

LA Weekly says departed editorial page editor placed 'witty banter ahead of serious argument.'

GEORGE NEUMAYR

MICHAEL KINSLEY'S tenure as editorial page editor of the *Los Angeles Times* grated on conservatives, of course. But Los Angeles lefties had no use for him either. Nikki Fine of *L.A. Weekly* devoted a column in the summer to savaging Kinsley as an East Coast phony and lightweight who didn't even bother to move to Los Angeles. In his first television appearance as editorial page editor of the *Times,* the Space Needle appeared behind him, observed Fine. Kinsley was in Seattle, where he has a posh home and where he ended up doing most of his editing for the *Times.*

Fine itemized Kinsley's various blunders, such as leaving a reorganization chart lying around for all to see that had the effect of seriously sapping staff morale. The *Times* should have selected a homegrown liberal, Fine argued, since "Los Angeles has long been ground zero for the progressive movement."

Fine faulted ex-editor John Carroll, who hired Kinsely, for "overlooking" this: "It probably never occurred to him that he'd disappoint this constituency by hiring Kinsley. That's because the one-time *New Republic* and *Slate* editor brought to the party an old-school liberal penchant for placing witty banter ahead of serious argument."

As an example of this penchant, Fine cited the "Kinsley-penned *LAT* commentary downplaying the significance of the so-called Downing Street Memo concerning the timing of the decision to go to war with Iraq and the Bush administration's distortion of

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the related WMD intelligence. He had the arrogance and audacity not just to pooh-pooh the memo's contents but also to poke fun at the progressive movement for pumping up the volume surrounding it. 'I don't buy the fuss. Nevertheless, I am enjoying it, as an encouraging sign of the left's revival. Developing a paranoid theory and promoting it to the very edge of national respectability takes ideological self-confidence,' Kinsley ridiculed."

Kinsley was stung enough to reply. He began, "I knew that Nikki Fine is an idiot, of course, but I had no idea that she was such a fuddy-duddy."

Apparently this is what passes for intellectual life on the Los Angeles left.

Apparently the assumption driving the media's frantic search for information on the "personal views" of John Roberts is that philosophical conservatism somehow conflicts with service on the Supreme Court — a curious assumption given that the most formidable personal obstacle to a judge's ability to read the Constitution faithfully — if the last few decades are any measure — is liberalism itself.

The *Washington Post* treated Roberts' possible membership in the Federalist Society as though it had caught him out in a crime — it gave front-page coverage to a story titled "Roberts Listed in Federalist Society '97-'98." The *Post's* parsing of Roberts' connection to the Federalist Society — "Meaning of Word 'Membership' May Become Issue for High Court Nominee," it declared hopefully — would be called McCarthyite farce by liberals in almost any other context. But they couldn't stop themselves, huffing that even if Roberts wasn't officially a member of the Federalist Society what "matters is whether he hung out with them," as David Garrow, a law professor at Emory University, put it to the *Post.*

As the *Post* was rifling through an old Federalist Society directory that it acknowledged had been supplied to it by radicals at the Institute for Democracy Studies, the *Los Angeles Times,* also concerned that a judge who might understand the Constitution could get a chance to apply it, allowed itself an exercise in Catholic baiting. In an op-ed titled "The faith of John Roberts," law professor Jonathan Turley questioned Roberts' "fitness" for the Supreme Court because he allegedly told Illinois Senator Dick Durbin he would "recuse" himself should he face a case in which the law requires ruling against a teaching of his religion, the Catholic Church.

"It was the first unscripted answer in the most carefully scripted nomination in history," wrote Turley. "It was also the wrong answer. In taking office, a justice takes an oath to uphold the Constitution and the laws of the United States."

After the op-ed ran, Durbin told the press that Turley had garbled the story, which Turley claims he heard from the senator while they were both waiting in a green room at a television station. Still, the *Times* op-ed — which no doubt appealed to Michael Kinsley's streak of impish superficiality — was revealing, illustrating once again that liberals consider Catholicism and the Constitution to be inherently incompatible, an ahistorical assumption given, among other reasons, that two Catholics, Daniel Carroll and Thomas Fitzsimons, contributed to writing the Constitution. Does Mr. Turley consider them to have been unfit delegates to the Constitutional Convention? Had Carroll and Fitzimons later joined the Supreme Court, would they

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have been unfit to interpret correctly the Constitution they contributed to writing?

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Reporters had a few other topics this summer on their minds, such as the mindlessness of the universe — the media waged a vigorous campaign against "intelligent design" scientists — and the condition of the CIA. The latter enthusiasm was particularly novel for reporters. The same press that used to pride itself on blowing the identities of CIA agents and foiling their operations was very troubled by Karl Rove's alleged assault upon the agency. "Covert operative" in the mouths of reporters was once an occasion for cursing and gnashing of teeth; but in defense of Valerie Plame they uttered it in the hushed tones of admiration.

They had been itching to nail Karl Rove for some time, lying in wait for something, anything, to buttress their sinister-schemer storyline about him. So even though they usually enjoy exposing CIA bumblers — as Michael Barone pointed out, the *New York Times* had no qualms about blowing the cover of a CIA-run airline earlier this year — the media suddenly became the agency's most conscientious ally. Karl Rove, it would appear from their concerned coverage and talmudic reading of laws protecting the agency, has done more damage to the CIA than the Church committee they championed in the 1970s.

Plame's husband, Joseph Wilson, by the way, has written for that pro-CIA publication, *The Nation.* A media that loves to label conservative public officials according to the publications for which they have written never mentioned Wilson's musings in this magazine that has operated as a sustained screed against the CIA for decades. "Joseph Wilson, who has written for the radical left-wing magazine *The Nation,"* wasn't the beginning of a line in any of the major media's stories. It was, instead, Wilson is a former ambassador who has worked for both Republican and Democrat presidents.

But for all the media's straining, the controversy over Plame and the jailing of the *New York Times's* Judith Miller didn't go far in renewing respect for the media or its causes. Insofar as the controversy reminded the public of the old media's tired attempt to place itself above the law and preen like a besieged priesthood, it became one more reason for people to tune out. A *New York Times* reporter went to jail and the public yawned. With that, Dan Rather's post-forgery oblivion, Tom Brokaw's retirement, and Peter Jenning's death, 2005 is beginning to look like the old media's final chapter. CPR

On campus

The NCAA's ham-handed ban on Indian mascots

A once inspiring organization has allowed itself to be politicized by left-wing trouble-makers.

MICHAEL P. DAVIDSON

THINK OF the National Collegiate Athletic Association (NCAA) — does it conjure images of triumphant, hard working athletes, intensive training, and even more intense competition? It does for me. As a kid, I watched the NCAA wrestling championships and was always blown away by the intensity and competitiveness of the athletes. Their commitment and determination exemplified strength, mental toughness, and, in a

UC Berkeley graduate and CPR *Campus Correspondent Michael P. Davidson is executive director of Generation Next, an organization of young, successful, right-of-center professionals who seek to engage more young people in politics.*

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way, honor and principle. I tried to emulate it. They set athletic standards, raised the bar, gave little kids like me something toward which to aspire. They gave me strength, hope, and inspiration.

BUT TIMES, it seems, have changed. Now suddenly the NCAA seems a little sissified and wimpy – well, actually, that's a bit too weak to cover what has befallen this once-noble organization for student athletics. The accurate words are gutless, yellow, nebbishy, poltroonish, pusillanimous, weak-kneed, enervated — in a phrase: politically correct. My childhood inspirations have evaporated. They're gone. Toast. My life is turned upside down. They ruined everything.

The NCAA Executive Committee recently adopted a policy to "prohibit NCAA colleges and universities from displaying hostile and abusive racial/ethnic/national origin mascots, nicknames, or imagery at any of the 88 NCAA championships." This, of course, has nothing to do with stopping hostility or abuse. It has everything to do with pushing people around and polluting amateur athletics with politics. The NCAA Committee says it is particularly concerned about references to American Indians — but doesn't seem to have bothered to find out whether the targeted mascots are either intended or seen to be abusive and/or hostile by anyone, American Indian or not. *[As reported by G.B. Tennyson later in this issue, the NCAA recently announced an embarrassing reversal of its ban on the Florida State Seminoles, evidently after more or less the whole tribe informed the Association that not only do they take no offense at the mascot, but are proud of their association, through it, with the school — editor.]*

No — rather than find out whether any actual problem exists, the executive committee simply took aim at 18 schools that don't fit on their Procrustean bed; 18 schools to be forced to submit on threat of exclusion — in the name of inclusion — from NCAA championship events. To compete at the NCAA's highest levels now, evidently, it is not enough merely to excel athletically. You, your team, your school, and its supporters, must toe the NCAA nationally-dictated political line of the day.

Mascot names on the target list range from the "Braves," "Indians," "Fighting Sioux," to specific Indian tribes like Seminole or Choctaw. One mascot name might arguably be considered derogatory: the Southeastern Oklahoma State University (SOSU) "Savages." Honestly, we don't consider people who don't speak Greek "barbarians," and we don't consider American Indians "savages." But that's for potentially offended tribes and SOSU to work out, not the NCAA or me.

Incidentally, the NCAA announced the new policy from their headquarters in Indianapolis, Indiana — so perhaps committee members will exclude themselves from appearing at future competitions pending politically correct editing of the names of their city and state.

Let's look at this issue with a circumspect eye, making sure, as the NCAA said, "the discussion springs from the same facts." A mascot is defined as "a person, animal, or object to bring good luck." In other words, mascots are something positive. In addition, bravery is a virtue; to be called a Brave is a compliment. For one's Indian tribe to be honored as a good luck charm and associated with the virtues of courage, endurance, patience, strength, wisdom, and all the other positive traits required of winning athletes, and as something for students and alumni to rally around is also a compliment. Shoot, the sight of an Indian-type mascot enriches our society's multiculturalism.

This is obvious as soon as we get away from the fevered-left's designated victim classes. The Fighting

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Irish of Notre Dame take pride in the caricature of the little Irish man with his dukes up, and even in the etymology of the name: it is, after all, a term once used pejoratively about Irishmen stereotypically dismissed and discriminated against as drunken rowdies. Who cares? Today, the Fighting Irishman rallies the spirit for Notre Dame fans everywhere. Why didn't the NCAA banish Notre Dame's mascot, which far more certainly than the Indian variety symbolizes historic "hostility," even "abuse"? And what of Oklahoma State's Cowboy, a mascot caricaturing cattle ranchers as scruffy-looking scrappers? Some real cowboys could be offended, presumably. The NCAA seems to discriminate, pardon the word, among possibly offensive mascots, working up righteous indignation over some but not others, the way lefties discriminate in favor of their notions of diversity while denouncing others.

The Florida State Seminoles actually have permission from the Seminole tribe in Florida to use the name. Their physical mascot is a battle-ready Seminole, as their sports team is battle ready for game day. The Seminole Indian is an example of strength, vitality, and victory to Florida State fans across the country.

Keep in mind what they're asking those 18 schools to do: In order to participate in certain NCAA-sponsored events, schools must undergo an entire rebranding: change uniforms, publications, written materials, and all paraphernalia said to be "offensive" to a small cadre of university presidents and chancellors. A costly endeavor, on top of being irrelevant to any real problem.

THERE IS also the now-standard left-wing assault on freedom of thought and diversity of opinion. Affected schools are encouraged to educate "internal and external constituents" as to the "offensive" nature of their mascots and spread "knowledge of Native American culture through outreach efforts and other means of communication." Schools affected by the new rule are told to learn from schools like the University of Iowa, which won't schedule games against schools whose mascots bear Indian names. Of course, "Iowa" is the name of an Indian tribe. Go figure.

How exactly did the NCAA arrive at this decision? The NCAA says the "decision was made by a dozen chancellors and presidents from all three membership divisions appointed to represent their institutions, their conferences and the values of higher educa-

Musings

When they come to write the story of the rise of the New Right as part of the growth of the conservative movement in the last half of the 20th century one of the names that will be writ large is Paul Weyrich. I have not always agreed with Paul. I am part of the libertarian fringe of the conservative movement. Paul is not. I am a Reaganite. Paul is not. You think I am set in my ways and beliefs? Meet Paul Weyrich.

Everybody has a right to be wrong and Paul has taken full advantage of that fact.

And yet I say without hesitation that few men have been as important to the growth of modern-day conservatism as Paul Weyrich. Without him there would be no Heritage Foundation. Without him the New Right likely would have floundered before it ever got off the ground.

Weyrich is one of those who puts principle before politics. On the surface that sounds great, but politics is a way of getting something done and unless you figure out a way to convert principle into action it (principle) ceases to have much meaning.

As a matter of principle Weyrich once decided Ronald Reagan was unfit to be president and he and a few others of like mind decided to find a more dedicated conservative to be the Republican presidential nominee. Their man was Indiana Rep. Philip Crain who foolishly seized the bait, lost big and quickly, and hasn't been heard from since. Worse, after Reagan was elected, Weyrich and his mates were left sitting on the outside looking in.

In a way that was too bad. In another way it wasn't all that bad; it left Paul owing Reagan nothing and free to second guess and criticize, the importance of which cannot be minimized.

Paul is one of those essential persons who operates better and more effectively on the outside.

A while back Paul had a nasty accident that left him crippled and in constant pain. Doctors decided that the only way to alleviate the pain was to amputate his legs. That was to be done this week.

If you can spare one, lift a prayer to the Lord on Paul's behalf. He is a brave man, a principled man and a man who has fought most of his life to make this a better country.

— by Lyn Nofziger, Aug. 12, 2005

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tion." Aha! Once again, leftist academia finds a way to impose its strangely homogeneous "multiculturalism" on everyone else. And, along with it, comes also the inevitable bureaucratic apparatus: the NCAA has a new vice president of "diversity and inclusion" to enforce these matters.

So more or less the first thing the new office of diversity and inclusion does is write an imbecilic statement originating in Indianapolis, Indiana, demanding emulation of the University of Iowa in discriminating against and excluding all mascots and imagery that honor Indians, their tribes, or implicitly advocate and praise a virtue of the tribes while heaping abuse upon and projecting seething hostility toward anyone who disagrees.

Let the NCAA redefine its mission as no longer one of governing sports competitions before it wades into the legal and political debates of the day. Let it rewrite that mission as one of pressuring member schools into political correctness before it quits respecting its members' autonomy. Let the NCAA manfully shoulder all costs of school re-branding before it impugns the moral stature of schools hesitant to do so. Let the NCAA become an Indian tribe before it steps in to speak for Indians about what does and does not offend them. And let the NCAA wait to pressure others until it adopts an even-handedness that looks upon such mascots as the Fighting Irish and such uses of Indian names as Indiana and Iowa in the same light it shines on those that happen to be out of favor with the ideologically-drugged social misfits who dominate "intellectual" life on too many American college campuses.

Several years ago, a fight on similar terms erupted at Justin Siena High School near Sonoma, California. During the 1960s (a time of acute political correctness), the high school, with much debate, had adopted the "Braves" as its mascot in honor of the Indian tribe that once lived in the region. In 1997, a UC Berkeley graduate and Justin-Siena employee, Margaret Ward, announced her opinion that the mascot was inappropriate and offensive. In response, the administration formed a "mascot committee" composed of faculty, administrators, and two students to analyze the issue, hear testimony from Indians for and against, and recommend a decision to the board. No Indian came forward to say they were offended. The only concerned citizen was a 40-something white woman from Berkeley.

One of the committee's student members was Kelso Barnett, who organized "Save the Brave" campaigns with t-shirts, signage, and other materials. Led by Barnett, Justin Siena's student body was almost 100 percent against the change. Barnett's campaign piqued the interest of the alumni association, which informed the school that if the mascot was changed, its financial support would end. Eventually, enhanced public awareness saved the brave and the school's students and teams remain today the Justin-Siena Braves.

Kelso Barnett later went to UC Berkeley and founded the *California Patriot*, America's leading conservative student political journal. He learned early how to put on war paint and stand up to leftist academia ... knowledge that served him well at Berkeley. The spirit of a Fighting Irish — and the Fighting Seminoles — should be summoned to reject the narrow-mined politicization that threatens college athletics and the NCAA. A fine organization must be returned to its historic, inspiring mission, leaving the fever swamps of left-wing intrigue to Hollywood and the Democrat National Committee. CPR

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The Law

Replace Judge Brown with a Brown-like judge

Her belief that the judge's role is to protect citizens from bureaucratic bullying made her a star.

HAROLD JOHNSON

For Governor Arnold Schwarzenegger, it's a time for choosing: Who will get his nod to replace Justice Janice Rogers Brown, the champion of limited government who has left the California Supreme Court for the federal appellate bench in Washington D.C.?

Oceans of ink are spilled speculating about the makeup of the U.S. Supreme Court, but a seat on California's high court is also a significant job, and the process of selecting a nominee rates more media attention than it gets. This is especially true when the governor faces the challenge of replacing someone of the caliber of Justice Brown.

Some have urged Schwarzenegger to focus on superficials: to look primarily at candidates' sex or race as he sifts possible successors to the Court's first black female justice. But it isn't her skin color or chromosomes that make Janice Brown a standout.

On a seven-justice court whose members span a fairly broad philosophical spectrum, Brown was the libertarian-conservative conscience. She was a star because of her defense of individual rights and her belief that the judge's role is, first and foremost, to protect citizens from bureaucratic bullying.

Schwarzenegger will best serve the law and the public by finding someone equally unafraid to dress down the regulators, someone who shares Brown's belief that "courts must be especially vigilant, must vigorously resist encroachments that heighten the potential for arbitrary government action."

In many areas of law that touch us most directly — family law, criminal law, issues of business and personal liability — the state courts are where the action is, and the state supreme court can have the final word. State jurists must often be looked to on issues of fundamental personal liberties.

Take property rights.

Two U.S. Supreme Court decisions this year will force property owners with complaints about government abuse to seek redress from state judges. The court said this explicitly in *San Remo Hotel v. City of San Francisco:* A landowner who claims that regula-

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Harold Johnson is a CPR *contributing editor and an attorney with the Sacramento-based Pacific Legal Foundation.*

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tions have effectively "taken" his property without compensation will almost always have to litigate in state court.

The controversial *Kelo v. New London* eminent domain decision points the same way. It says the Fifth Amendment doesn't bar seizure of property for the benefit of private interests. Under *Kelo,* if eminent domain abuse is going to be stopped, it will have to be through state law and state constitutions — as interpreted and enforced by state judges.

'The right to express one's individuality and essential human dignity through the free use of property,' Brown has written, 'is just as important as the right to do so through speech, the press, or the free exercise of religion.'

JANICE BROWN takes property rights seriously. "The right to express one's individuality and essential human dignity through the free use of property," she has written, "is just as important as the right to do so through speech, the press, or the free exercise of religion."

Unfortunately, she was often a dissenter in property rights cases. As *CPR* contributor Professor Gideon Kanner has detailed, California state courts are notoriously unfriendly to property owners who complain about regulatory overreach. How much worse will things be if Governor Schwarzenegger does not appoint another property rights stalwart to replace her?

Civil rights is also a central issue before the California Supreme Court. Brown led the way in rigorous enforcement of Proposition 209, the initiative that bans racial preferences and racial discrimination by state and local governments. With her departure — and the death several years ago of another great defender of Prop. 209, Supreme Court Justice Stanley Mosk — it's conceivable the court might backslide and give a pass to continued attempts to evade Prop. 209 by many state and local bureaucrats.

Governor Schwarzenegger should choose a justice who will make sure the mandate for colorblind government is obeyed.

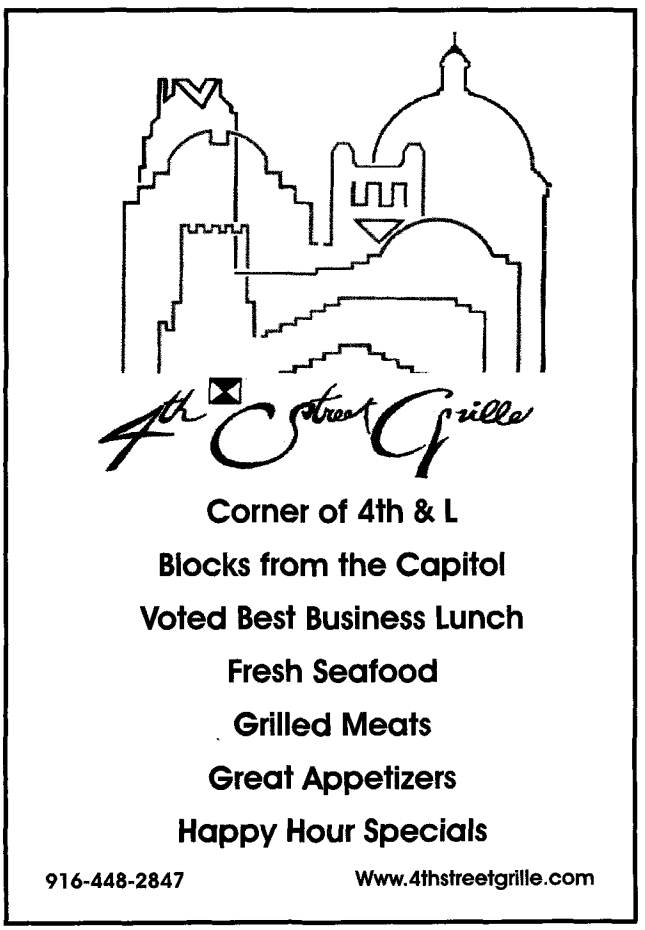
Taxpayer rights are another big issue.

California courts have a history of fraying the edges of Proposition 13 and Proposition 218, two state constitutional provisions to deter tax hikes in this heavily taxed state. Brown always argued for strict adherence to these laws. To undercut them, she said, amounted to legislating from the bench. We need a replacement who shares her respect for the constitution and her concern for that ultimate underdog, the California taxpayer.

A governor's reputation can be permanently burnished — or broken — by a supreme court pick. Jerry Brown carries the stigma of having named the infamous ideologue Rose Bird chief justice.

In contrast, Pete Wilson won plaudits by putting Janice Brown on the high court. Among pundits and professors who want courts to legislate government expansion, it was an unpopular pick. But Wilson stood down the critics and had the last laugh as she went on to become, arguably, the court's most esteemed member.

Schwarzenegger is said to take counsel from Wilson. He should look to Wilson's example as he chooses a successor to the freedom-friendly judge Wilson gave us. CPR



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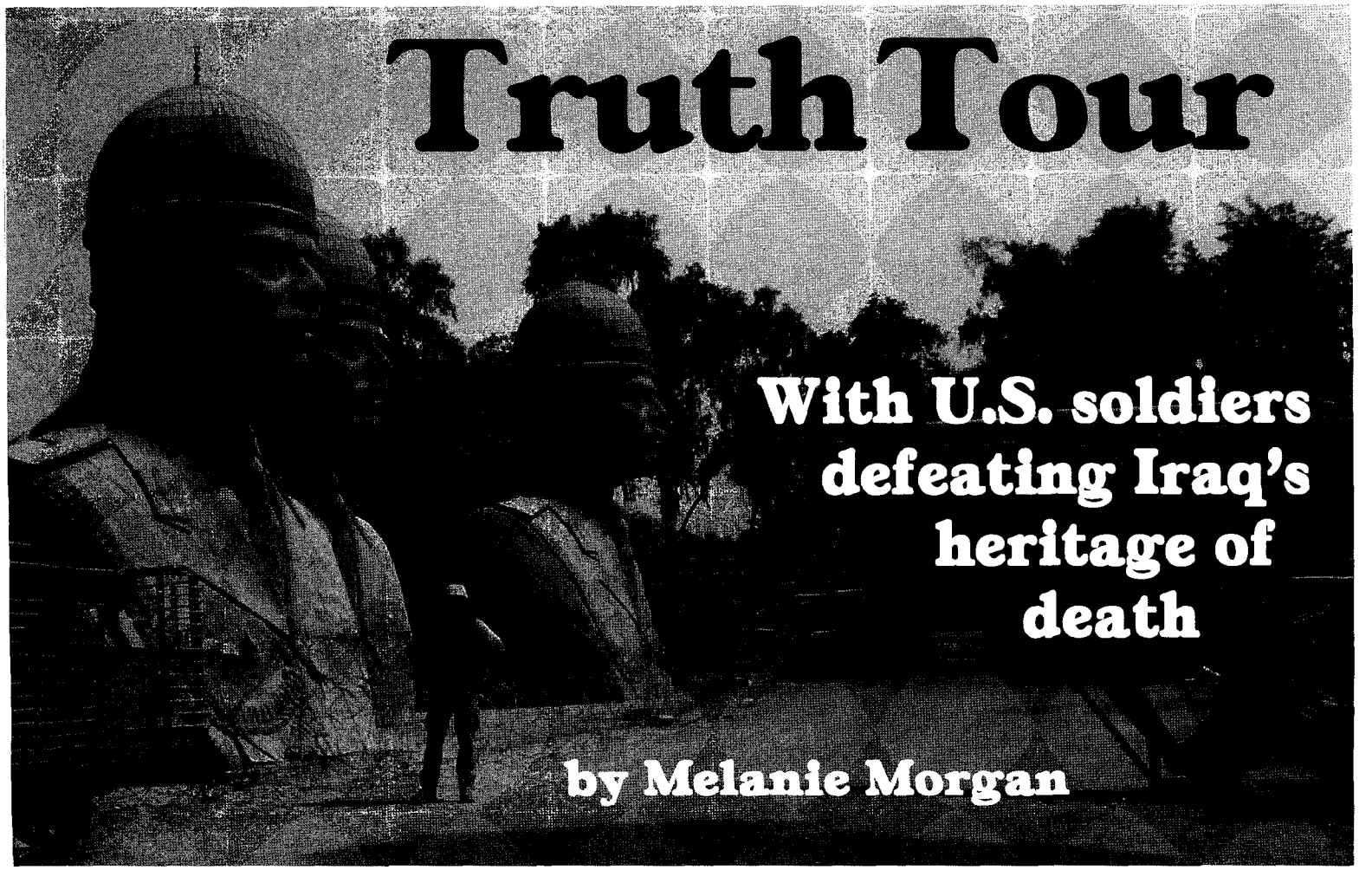

Truth Tour

With U.S. soldiers defeating Iraq's heritage of death

by Melanie Morgan

We finally broke away from Camp Victory, where 8,000 troops are stationed north of Baghdad. After asking repeatedly to go into the city and away from relative safety, Central Command finally relented, only because of the direct intervention of Captain Daniel Green, a quirky Atlantan with a quick wit, who enlisted the aid of his Commanding Officer Lt. Colonel Roth.

Roth cut through the red tape because he's angry at the obvious disconnect between the situation on the ground in Iraq and what is coming out of the major media, and he wasn't hesitant to say so for the record. He wanted us to tell the world what his troops are doing and how the Iraqi army is making dramatic strides training with U.S. forces.

We were a group of conservative talk show hosts in Iraq to help get the truth out to the American public without the filter of the major media putting their own negative spin on the story. The trip — dubbed the "Truth Tour" — was put together by an organization I chair with former Assemblyman Howard Kaloogian, Move America Forward *(www.MoveAmericaForward.com)*. The organization is dedicated not only to supporting our troops, but also to winning the war on terrorism. We wanted every opportunity to let our armed forces men and women tell their story first hand.

Captain Green choppered into Camp Victory to meet us personally, and escort us back to Camp Prosperity (inside the Green Zone of Baghdad), which actually was one of Saddam Hussein's many palaces. It's called the Four Headed Palace, because four marble heads of Hussein, visible for miles, had perched atop its marble turrets. All were blown off in the J-Dam palace bombing during the original Iraqi Freedom operations.

Immediately, we became friends with the garrulous Dr. Green, one of only four surgeons assigned to the Iraqi theater. All medical aid is given by medics and PA's — Physican Assistants. The most badly wounded (including Iraqis) are given life-saving treatment and then flown out to state-of-the-art medical facilities in Germany.

Together, we set off for Camp Stryker, which shuttles groups of contractors, army personnel, and other visitors.

Some of our group stayed behind. Those of us who opted for the ride into the Green Zone were subject to intense security precautions, including a frightening middle-of–the-night ride along the Highway of Death. The 'Rino' busses are heavily armored to defend

Melanie Morgan hosts a political talk show on San Francisco radio station KSFO.

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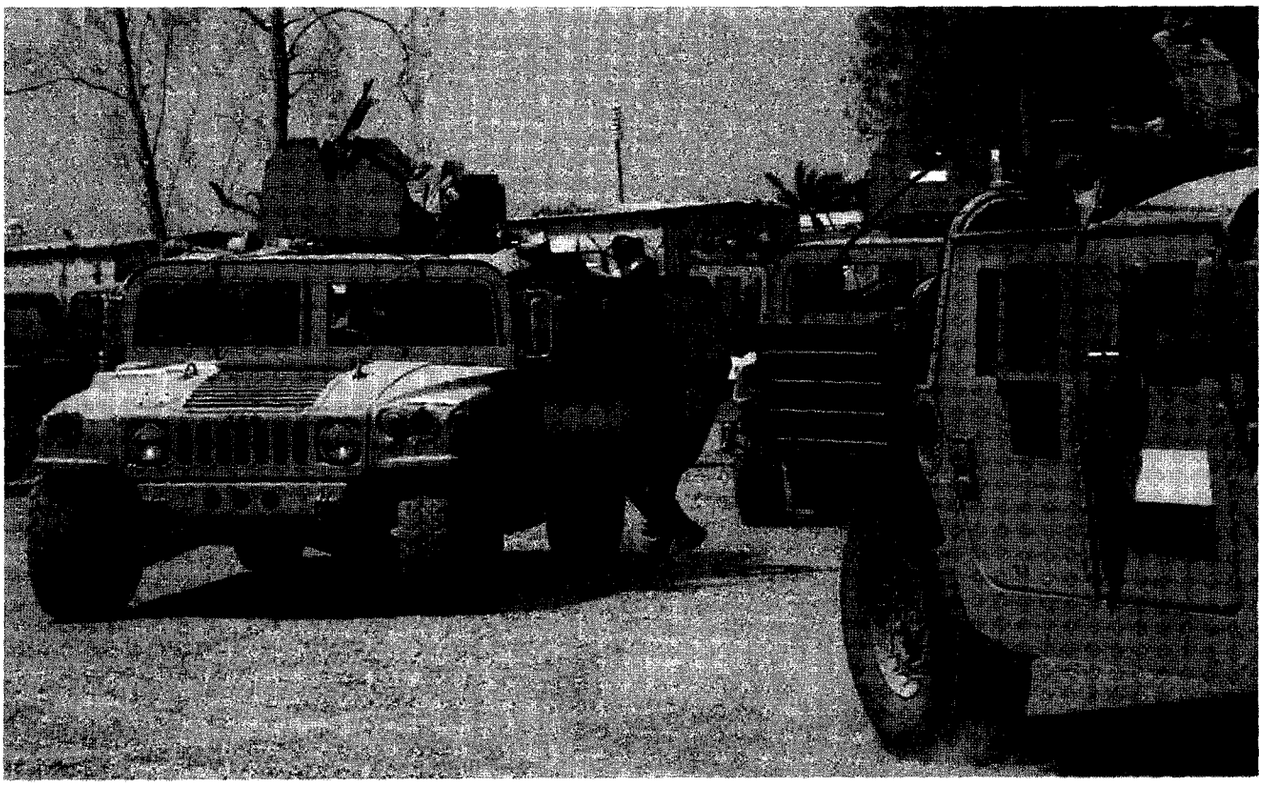

against suicide bombers. The convoy was lead by HumVees manned by 20-something soldiers who, by day, make life and death decisions, and at night play video games to pass the time.

The buses motored to a stop at a security checkpoint in downtown Baghdad, where we all got a stretch and a chance to use our satellite phones to report back to the United States. Next, we hopped into an open-air truck where I did a live report at 5:00 a.m. for my radio station, as the wind cooled us from the 105 degree tempertures while we drove in the sleeping city.

I napped for an hour on a couch outside the tactical control room inside the palace. Giant Star Wars video monitors and computers hummed away, logging in all Baghdad's "hot locations," directing patrols, gathering intelligence.

I was shaken awake by the company Public Affairs Officer, Major Alayne Conway. She assigned me to accompany an "up-armored" HumVee patrol. An up-armored vehicle is a HumVee re-fitted for extra steel plates on the underside and outside. Congressional criticism of the army alleging a lack of "up-armoring" (echoed by the Blame America First chorus and the major media) is an exercise in myth-making. No patrol is allowed to leave base without the extra protection. It's the rule and is strictly followed.

Our destination: Route Irish, also known as the Highway of Death. My fellow talker Michael Graham of WMAL in Washington, D.C., headed out with another HumVee patrol. Graham, a former stand-up comedian, supplied plenty of gallows humor, hitting the punch-line every time. Our escorts belly-laughed. It's a gift.

The guys who took us on patrol — Sgt. Jay Perkins, PFC Adam Smith, and Staff Sgt. Matthew Miller — are quite simply the most amazing young men I've ever met. Smith is a 20-year-old, twice-wounded veteran of these dangerous patrols. Miller was hit twice, too. As PFC Smith turned the key and warmed the computers, Sgt. Miller announced "Lock and Load" ... all rifles at the ready.

Then, panic broke out.

"Where is she? Smith, what did you do with her?"

Miller responded, "did you lose her? You were supposed to watch her!"

Confused, I looked around. Were they talking about me?

"Perkins, what happened to Beaver?"

Now I'm really lost.

Reaching down under the seat, Smith hauled out a stuffed toy, a beaver. Everyone had to rub it, including me. "Our fuzzy Beaver brings good luck," Perkins said.

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"We never leave for patrol without petting her. That way we don't get killed." The fuzzy beaver, lost and now found, allowed us to proceed.

Turning out of the Camp Prosperity gate, we headed north, back the way we came in. With the temperture now at 125 degrees, we rolled along slowly, the gunner in the turret swiveling his weapon in a continuous sweep. I peppered my patrol escort with questions: was their mission worth so much — the cost of lives, the excruciating heat, the time away from their families? I wanted to know how they really felt about their service. I practically begged them to give me bad news. To the man (and woman), all were proud to be doing the job they signed up for. I couldn't trick them into any criticism of the War on Terror. All were re-enlistees. They explained they want Americans to understand that if "we find and kill insurgents here, we won't be fighting this kind of war at home where all of our families would be at risk."

Just a short way into the ride, you could hear small arms fire. And then a bus of Iraqi men broke down in front of us. That's when the talk stopped, and everyone went on heightened alert. Blaring their sirens and yelling through the loud-speaker, Sgt. Miller instructed everyone to get off the Highway. "Do it, do it, do it now. I'm having a *fine* Wednesday and I don't want to have to shoot y'all." The HumVees ahead and behind did U-turns in an evasive action, in case the Iraqi's were planting IED's — improvised explosive devices. Miller and Perkins jumped out of the vehicles with rifles ready to shoot anyone who made a suspicious move.

After securing the area, they jumped back in and we started rolling again. Every bump to the undercarriage made my stomach lurch. Was it a rock, or a bomb? We were on the road about an hour, though the patrol seemed to last much longer than that. Finally we pulled into our Forward Operating Base.

Blonde on Base

Word spread quickly that a blonde — me — was in the area. Suddenly soldiers were everywhere, talking to me, telling me their stories. A member of the California National Guard asked me to walk over to NightStalker, the Guard's headquarters, where Lt. Cameron Murphy of San Jose rushed over to shake my hand. He thanked me profusely for coming. His wife had e-mailed him about the Truth Tour, and he had e-mailed his troops asking them to come talk to me. Everyone had something important to say: thoughtful, sometimes poignant, even searing — insights about why they are here to fight, possibly die, and make peace.

The California National Guard has the highest rate

In tempertures reaching 125 degrees — broadcasting from Iraq.

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of casualties of all Guard Units. Many of these men had friends who are now dead, crippled, or recovering from their wounds.

A wall-sized map of Baghdad was displayed in the conference room. A list of humanitarian reconstruction projects was posted next to it, with the dollar amount spent on each. The list — citing sewer systems built, bridges repaired, hospital improvements made, electricity restored, and more — was too long to remember, but I do recall the total spent in their area of responsibility: $1.3 billion. Not sexy headline news for the major media, but it was news to me — the exciting truth that our military is stabilizing the economy and dramatically improving ordinary Iraqi's everyday lives.

Lt. Murphy sat me down at his lap-top computer. He pulled up amazing photos of a small girl named Hara. He told me she was wounded in a cross-fire between terrorists and U.S. soldiers. Her sister was killed. She was badly wounded. Unable to find adequate medical treatment for their daughter, her parents flagged down Murphy's patrol, which rushed her to American Doctors. She received the first rate medical treatment she needed and began months of rehabilitation. The Night-Stalkers adopted her and her family. Slowly, she is learning to walk again. The photos showed American hospital personnel hugging her and crying when she finally was well enough to go home. I cried. Lt. Murphy, a muscular six-foot, five-inch trained killer, cried too. I asked him to write up this story — the kind we read too rarely in elite American newspapers — and I would post it on our website and shout it to everyone I could. He pumped my hand in gratitude.

Busted

As I gathered my tape recorder, papers, and bags to leave, Lt. Murphy's CO came over. A burly guy with a ready laugh and a southern drawl, he started capping on Lt. Murphy. "Tell her, Murph, about your purple heart." Lt. Murphy turned bright red and shut-down. The Captain explained that Murphy was on patrol when an IED exploded under his HumVee, setting it on fire. He dragged the badly injured gunner out of his turret, receiving severe burns on his own leg, just before the HumVee exploded. His leg is still not fully healed.

As we headed out the door, Lt. Murphy asked a favor. He said the hero of the story was the soldier he saved, his friend still in rehab at Walter Reed hospital, facing long odds of walking again. Murph wanted no publicity and practically begged me to keep his story quiet. Reluctantly, I promised. Now I owe Murph an apology, because I can't keep that promise. People need to know. That was the purpose of the Truth Tour. People must know what our courageous soldiers are doing, quietly and without thought for themselves. Then the American people will understand why are young men and women in Iraq are proud of what they do every day.

The tour changed me, as it changed the other 14 people who also took this amazing journey. I understand better what it is to be profoundly grateful and proud to be an American. Our sons and daughters are doing what we ask of them, willingly, with little complaint, and not nearly enough pay. Please America, Support our Troops — a bumper sticker slogan, but one that more than ever means everything to me.

The troops told me over and over that they read the newspapers and see the "news" portraying Iraq as nothing but a story of slipping support in this country for their mission, as though it were possible to support the troops apart from that mission. They don't see it that way. For the soldiers I met, the bottom line is this: if you support the troops, you must support their mission. I agree; we can't have it both ways. CPR

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Blood Alley, and other stories

Endangered *Species*

Human beings: the only living things left unprotected — both by and from — the Endangered Species Act.

Where an excess of power prevails, property of no sort is duly respected. No man is safe in his opinions, his person, his faculties, or his possessions.

— James Madison

A stretch of Highway 70 in northern California has killed and injured so many people in automobile accidents over the years it's come to be called "Blood Alley." Plans to straighten the highway's dangerous curves have been on the drawing board since 1991 — but have not been carried out. What has held things up? The answer: bureaucrats at the U.S. Fish & Wildlife Service who've barred the necessary life-saving changes in order, they argue, to protect a tiny wildflower known as Butte County meadow foam. Liberal pressure groups that urge massively intrusive regulation any time anyone can

M. DAVID STIRLING

Mr. Stirling is vice president of Pacific Legal Foundation, a public interest legal organization that has defended private property rights and challenged the ESA in the nation's courts, including the U.S. Supreme Court, since 1973. PLF's website: www.pacific-legal.org Mr. Stirling may be reached at mds@pacificlegal.org.

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The cause of death on Hwy. 70 is not a hurricane, but obtuse enforcement of the Endangered Species Act — does that make it right?

show that "even one life might be saved" have been strangely silent. Or, perhaps, not so strangely, given that saving lives in this instance would mean less government, not more, and big government, not human life, is the liberal hypocrites' real *raison d'être*.

Finally last July, after nearly 14 years, FWS approved a plan to save peoples' lives. Through the long-suffering efforts of *conservative* Congressman Wally Herger, working with the California Department of Transportation, $20 million has been secured, but not merely to straighten the dangerous stretch on Hwy. 70. FWS is requiring that the entire intersection of Hwy. 70 and Hwy. 149 be moved so as to avoid disturbing the meadow foam.

Few people realize the extent to which, for the last 32 years, Americans across the country, and especially in California, have been subjected to an ideological drive to use environmental concerns — for the protection of plants, insects, or natural processes — as an excuse to justify official government *un*concern, even contempt, for human life, liberty, and property. As I write, the nation is riveted by images of our fellow citizens in the Gulf region who have lost everything they own to the ravages of Hurricane Katrina, while hundreds, perhaps thousands, more have lost even their lives. But are the victims of bureaucratic intransigence about Highway 70 any less dead than those killed by natural disasters? Is their families' grief any less? The cause of death on Highway 70 is not a hurricane, but obtuse enforcement of the 1973 federal Endangered Species Act (ESA) — does that make it right? Left-wing opponents of amending ESA may think so; their actions suggest that they do. But few Americans would agree.

Similarly, broad public outrage continues over the Supreme Court's *Kelo v. City of New London* decision allowing local governments to seize private property, transferring it from some citizens to others whose use of the property would increase local tax revenues. To accomplish this, the activist Court majority effectively converted constitutional author James Madison's carefully chosen "public use" stricture in the Fifth Amendment — "nor shall private property be taken for public use, without just compensation" — into the malleable, open-ended concept of "public benefit." Madison, like all the Bill of Rights' framers, knew that without specific restrictions limiting the taking of private property to "public use" — schools, parks, public buildings, roads, and the like — government would engage in exactly the sort of mischief the city of New London, Connecticut, is visiting upon Suzette Kelo and her neighbors. Because greater tax revenues in the city's coffers would benefit "the public," the Court said, the Fifth Amendment did not prevent the city from taking Kelo's and her neighbors' homes.

This regrettable Supreme Court decision did not, however, touch states' power to protect their citizens from its heavy-handed result. Arizona and Washington already prohibited state and local government eminent domain takings of private property for private use. The Alabama Legislature, with the governor's approval, just enacted a similar statute, and two dozen other states, including California, are moving in that direction. Yes, even in this "liberal" state, a good chance exists the government will act to protect its citizens, judging by the hue and cry over *Kelo* coming not just from Republican legislators who traditionally defend property rights but also from Democrats — those representing homeowners in older, modest, often minority neighborhoods, the people whose property is most in danger of being seized by greedy city officials seeking increased revenue from private venturers looking for low-cost land. This is not really surprising. Polls show huge national majorities — as high as 90 percent — oppose New London's actions against its older, long-time residents.

But there is a less publicized, less known, and therefore more insidious threat to private property — to peoples' homes — than that presented by either *Kelo* or Katrina. *Kelo*, like a natural disaster, threatens the property of people who already own homes. But many Californians are prevented from owning homes in the first place by lawsuit-driven enforcement of the Endangered Species Act. Driven by large, well-financed "environmentalist" organizations, ESA litigation has become a weapon in an ideological war waged against the American people. The

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presence of one or more of California's nearly 300 protected species of plants, birds, insects, fish, and other wildlife is used, under ESA, to harass property owners and deprive them of their rights; to hold up or halt improvement and construction of schools, hospitals, and highways; to threaten or, in some cases, destroy the lives and health of California families and the education of our children.

How does it work? Activist litigators like the "Center for Biological Diversity" (CBD) have grown adept at using ESA to prohibit private land use. When, in the mid-1990s for example, the U.S. Fish & Wildlife Service (FWS) found insufficient scientific or legal basis for designating certain lands as critical habitat for the Alameda whipsnake, CBD sued to force the habitat designation. To no one's surprise, FWS quickly settled, agreeing to designate critical habitat for the whipsnake "on an expedited basis." Rushing to accomplish what would usually be a lengthy, labor-intensive process, FWS, within months of the settlement, designated as critical whipsnake habitat seven geographical areas encompassing 406,708 acres of mostly privately-owned land within Alameda, Contra Costa, San Joaquin, and Santa Clara counties. Yet, FWS openly acknowledged that its field biologists had no idea which of those acres were actually occupied by the whipsnake, and that all lands within the range of the snake that biologists believed *might* contain habitat needed by the snake were included in the designation.

Numerous frustrated property owners challenged this bureaucratic overreach. "For several months," one said, "day-and-night observations and thorough field surveys were conducted ... on our ranch, looking for ... the Alameda whipsnake, but absolutely *none* of these creatures ... were found on our ranch." Despite the enormous financial burdens the designation imposed on the property owners — little or no use of their property, instant evaporation of its value, no buyers wanting to purchase land designated as critical habitat — for more than six years FWS declined to modify the designation.

Pacific Legal Foundation then challenged the designation in federal court. In short order, the judge set this onerous, ill-founded designation aside, finding that FWS had failed to perform an adequate biological survey of the whipsnake's range as well as several other important ESA-required analyses, including an assessment of the snake habitat designation's economic and social impact not only on property owners directly hit, but on surrounding communities as well — its effects, for instance, on the availability of affordable homes in the area.*

This sort of heavy-handed government encroachment on private property has been going on for more than three decades. It is long past due being officially recognized as a "taking" under the Fifth Amendment. Congress declared in its ESA "findings" that endangered or threatened "species of fish, wildlife, and plants are of aesthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people." That means that species preservation is a "public use." As such, the public ought to pay for it, rather than imposing the full burden of species preservation on individual property owners.

Official unconcern for human life and safety under ESA has not been limited to the case of California's Highway 70 that I described at the beginning of this article. In 1990, for another example, the Army Corp. of Engineers publicly identified a stretch of levee south of Marysville as needing immediate repair, without which, the Corp. said, "loss of life is expected." But ESA protection of the Valley Longhorn Elderberry Beetle was used as an excuse to delay approving the necessary repair. In January 1997, a high flow in the Feather River broke the levee, flooding the area. Three people drowned.

In an economically-depressed neighborhood in San Bernardino County, the discovery of eight protected Delhi sands flower-loving flies delayed construction of a badly-needed county medical care facility for more than a year. U.S. Fish & Wildlife bureaucrats gave the green light for the hospital's construction only after an additional $3.5 million of taxpayer funds were spent to acquire a new site for the facility, thus keeping the originally-purchased site vacant as habitat for the family of flies. The meaning of all these parables is plain: human life, under ESA, is cheap.

ESA is also used against public education. In San Diego County, for example, federal bureaucrats (from FWS of course) recently declared the intended site of Jonas Salk Elementary School "the largest unprotected vernal pool complex remaining in Mira Mesa." They said fairy

*The Ninth Circuit Court of Appeal in 2004 upheld this landmark decision: *Home Builders Association of Northern California v U.S. Fish and Wildlife Service and Center for Biological Diversity.*

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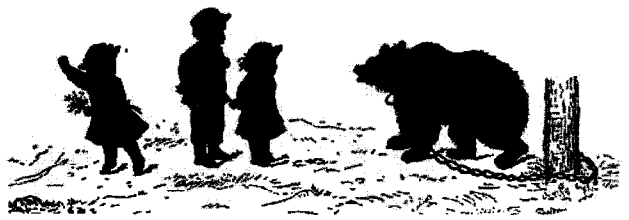

With Kelo catapulting private property protection to the top of Americans' list of critical issues, the political environment is the best it's been in decades for ESA reform.

shrimp eggs that lie dormant in the hard-pack soil of these vernal pools during the dry months will hatch once the rainy season begins. Owning the site since 1979, the school district contends that the seasonally rain-filled ruts, trenches, and other depressions on the 13-acre site are the result of years of usage by motorcycle and dirt bike riders. FWS says it makes no difference that these vernal pools were man-made. FWS also rejected the school district's offer to reduce the actual building site from 13 acres to nine. So, Jonas Salk Elementary School will not open in September 2006 as planned. The earliest it might open will be September 2007, or it might be delayed still more, or may never open at all. To salvage the site, the school district is considering a "mitigation" trade-off with FWS, whereby it would purchase vernal pool acreage in another area of the county in return for FWS's sign-off. The price tag? At least $4 million — funds needed to educate our children.

These cases show that ESA has become, intentionally or not, a weapon deployed against human rights, damaging human welfare. With *Kelo* catapulting private property protection to the top of Americans' list of critical issues, the political environment is the best it's been in decades for ESA reform. Legitimate concerns *for* property rights and *against* anti-people "environmentalism" must be addressed. Members of Congress and staff are well-informed about ESA's glaring deficiencies and ways to cure them effectively. It is time to get that job done.

And this fall Congressman Richard Pombo, (R-CA), House Resources Committee chairman, will introduce a much-anticipated bill to amend ESA significantly. It has been in the research and development phase for a couple of years. However, when Pombo finally released its provisions not long ago, the measure received mixed reviews: some people calling it "an updating," "an improvement," and "a strengthening" of ESA, others describing it as "a Pandora's box," "a wolf in sheep's clothing," and "all smoke and mirrors." Curiously, these characterizations do not come from ESA's defenders; all of them come from supporters of property rights. The bill is regarded as an improvement by most large industrial landowners who favor reform of ESA's anti-business provisions (which threaten many businesses' survival and, in fact, have been used to destroy much of the timber industry). But grassroots advocacy groups interested in ESA reform — those more directly concerned with the Act's devastation of small owners' rights to use their property — fear the bill contains provisions potentially worse than current law.

An historic reaffirmation of every American's right to own and control his property could be achieved, both because of *Kelo* and the growing abuses of ESA. Failure to achieve it would be tragic. Anything shy of a clear mandate that the *human* species should receive primary consideration would be no cure at all. CPR

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SPIRIT OF THE RECALL

CPR's BI-MONTHLY REPORT ON CALIFORNIA'S 'BLOW UP THE BOXES' REVOLUTION

Nowhere to go but up

by Christopher Shelton

Watching the governor and the GOP take the pummeling they have in the last few months brings to mind what it must have been like in London during the worst of the World War II Nazi blitz. The union-financed air-wave assault has been every bit as relentless as the waves of Luftwaffe bombers that pounded London night after night for more than a year. The damage wrought by the multi-million dollar union media campaign is real, as real as the burned out London buildings left in the bombers' wake.

And yet it bears remembering that beneath London's rubble stirred a man who would rally his fellow citizens, and indeed the free world, holding out hope for the ultimate triumph when almost no one in the world saw victory as possible. Is such a leader stirring in the Capitol, ready to inspire his troops and fellow citizens?

There had better be, and there well might be. For if victory is to be the GOP's come November 8, Governor Arnold Schwarzenegger is going to have to do a Winston Churchill impression worthy of the ages. Many senior politicos of both parties believe him still capable of doing just that.

Attitudes found in the competing camps are most counter-intuitive. The GOP apparatus in the Capitol talks bouyantly of a September-October game plan led by the governor and bringing victory in November. The Democrats, meanwhile, continue to fret, moan and whine like folks who are 20 points behind in the polls.

Part of any GOP victory must include quick rehabilitation of the governor's public approval numbers, and part of the plan for that includes having him give a Churchillian address to the state, laying out exactly how bad things are and pointing out that "blood, tears, toil, and sweat" are required to fix California's myriad problems. He needs to admit starkly to the people that he was taken in by Democrat promises of compromise, and was betrayed. This is a speech he should have given shortly after taking office, as a matter of fact, rather than allow himself to be deluded by Democrat talk of bipartisan cooperation. Better late than never, however.

"The Speech" would be followed up by eight weeks of nonstop, in-your-face campaigning by Schwarzenegger, painting the choice facing the voters on November 8 in powerful, crystal-clear, dare we say Churchillian, terms. Had Churchill lost the Battle of Britain, he certainly would have been publicly shot or hung, probably after a show trial. The governor realizes that the political equivalent of this fate awaits him if he is an across-the-board loser in November.

Both Republican hopes and Democrat nervousness trace partially to a shared belief that things cannot get worse for the governor. Due to an enormous mis-calculation by his political consultants, he did not respond effectively — or, frankly, at all — to the months of union-financed electronic-media character assassination. The Democrats and public employee unions have had the

(Please turn to page 30)

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Lew Uhler ... quiet, unassuming ...

And considered so dangerous labor bosses plan a $200 million *jihad* to beat him.

by John Kurzweil

Meet David: in this case, suspend your disbelief a bit, for he goes by the name of Lew. But David he is; as surely as big labor's $200 million political machine is Goliath in the November 8 watershed California special election. Goliath's strength lies in labor bosses' completely legal pocket-picking of rank and file members' wallets — accomplished through deductions taken from workers' paychecks without their permission before they ever see the money — to fund massive political war machines answerable only to the few overwhelmingly left-wing ideologues who control the unions. The respect they show for their members' democratic rights and views can be gauged by a simple fact Lew Uhler emphasizes: 50 percent of union

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members supported Gray Davis's recall; 100 percent of union political dollars were spent to oppose it.

David's pebble, carried in his sling and aimed squarely at Goliath's forehead, is the November ballot's Proposition 75, known as the "Paycheck Protection" initiative. Prop. 75 simply says public employee union members, like all Americans, will henceforth decide for themselves where their political dollars go and how they are spent. Their union can have them, *if* these working men and women individually say it can, but they will no longer be forced to fund the left-wing labor oligarchs' political wars.

Among the many ironies of this election campaign is that it serves as an almost obscene example in action of the very corruption Prop. 75 seeks to end. Goliath can steal all the money he needs to fight the battle; David must rely on voluntary support. The union oligarchs display goose-step uniformity in being dead-set against this measure; union members, according to surveys, support it, as they did the recall, at around 50 percent. The lethal core of David's pebble is the simple truth that this system is wrong; it is immoral, a truth that "resonates" (to use, please excuse me, a much-overused descriptive) with voters. A September 5 Field Poll report stated that "55 percent of likely voters favor the measure, while 32 percent are on the No side. This division of sentiment is virtually the same as was found in June, when it was 57 percent Yes and 34 percent No. Democrats and non-partisans are only narrowly supporting Prop. 75, while Republicans are overwhelmingly in favor 71 percent to 22 percent. Men and women, as well as voters in Southern and Northern California, currently favor Prop. 75."

As do, as I say, half of union members. As soon as paycheck protection became law in Washington state, *85 percent* of teachers answered resoundingly "no" to continued funding of their union's political activities. A special $18 million dues-for-politics levy laid on members by union brass at the state Correctional Peace Officers Association was opposed by more than 4,000 prison guards. Teachers union honchos were more prudent; they never asked their members' opinions before hiking teachers' forced political contributions $50 million over three years.

Lew Uhler, at 71 years old, is used to slinging pebbles by speaking simple truths to power. Founder (in 1975) and president of the National Tax Limitation Committee, a leading national grass roots taxpayer organization, Lew served, in 1968, on Governor Ronald Reagan's California Law Revision Commission; in 1970 as the governor's State Director of the Office of Economic Opportunity, then in Reagan's cabinet as assistant secretary of the Health & Welfare Agency. At Reagan's request, in 1972 Uhler organized and served as chairman of the Governor's Tax Reduction Task Force, whose advisors included Nobel Laureates Milton Friedman and James Buchanan. The Task Force developed Reagan's landmark Proposition 1, which, as the *Sacramento Bee* recently reported, "failed in the special election of 1973," only to see "its principles ... enacted in the winning Gann initiative of 1979." While working for Reagan, Lew took on California Rural Legal Assistance, an operation that equated "helping farm workers" with using them to help promote left-wing politics – in much the same way, come to think of it, that unions now exploit their members to serve similarly narrow left-wing agendas.

Lew Uhler's National Tax group's website features a telling quote from Thomas Jefferson, whom Democrats like to consider the father of their Party: "To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors is sinful and tyrannical." Precisely. The quote illustrates the unions' core problem: the reason they find themselves vulnerable despite being able to conjure up virtually unlimited cash to sustain their position. The problem, for the union (and the state Democrat Party, which relies absolutely on union megabucks to continue its hold on power), is simply that there is no honest way to defend their position. And — as Ronald Reagan (and too few others) understood about communism — any human endeavor that must rely on lies, intimidation, and corruption to sustain itself is manifestly, pathetically weak.

We see this confirmed in paycheck protection

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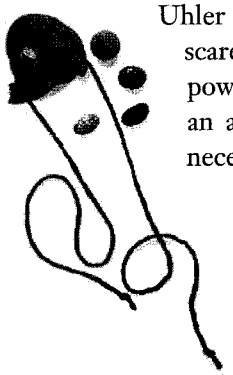
— an idea actively championed by a relatively few people (it has no formal endorsement so far even from Governor Schwarzenegger), with Lew Uhler taking the public lead, that nonetheless so scares the whole vast California left-wing power structure that it is prepared to spend an absolutely unprecedented $200 million if necessary to defeat it.



For a sample of what we can expect from so desperate a movement, it is instructive to look back to the last time California tried to end union theft of workers' political funds: 1998's Proposition 226. For one example: late in the campaign, 226 headquarters began hearing from Republican women who said they'd received disturbing telephone calls warning that the measure, if passed, could bring about the murder of policemen's families.

This was odd, to say the least, given the measure's status as obviously a *political reform* initiative. How could 226 spell murder for policemen's families? Those who complained about receiving the calls said the callers, identifying themselves as representing the California Correctional Peace Officers Association, began by asking "do you know about Prop. 226?" and asking those who said they did how they planned to vote on the measure. If you answered yes, the caller, re-emphasizing his "peace officer" affiliation, said he and his colleagues strongly supported the initiative's main purpose but, alas, they had found a "fatal flaw" buried in its fine print. Police union members, they said, who wanted to continue giving paycheck deductions to their union's political activities might endanger their families.

"The information on the forms they would fill out," the GOP women were told, "could become public. Drug dealers and gang leaders would learn police officers' home addresses. They could go there to murder them and their families." The phrase "and their families" was repeated by nearly every woman who received a call. Exit polling and post election analysis indicated the phrase proved pivotal in convincing many women to switch their vote on the measure to no. "We lost a significant portion of our GOP women supporters through this disinformation effort," said Jim Righeimer, a political strategist who worked closely with the campaign.

The scare story was altogether bogus, of course. The initiative involved no information "form" to be filled out, and, in any event, it is illegal for anyone to make public policemen's home addresses. As for the impression that the callers were worried California policemen alerting their neighbors, several women, inquiring about the callers' location, said they were told "Kansas City," or "Texas," or "Florida."

Among the many ironies of this election campaign is that it serves as an almost obscene example in action of the very corruption Prop. 75 seeks to end.

At another juncture in the campaign, the surprising news emerged that 226 was being formally opposed by such seemingly uninvolved but highly respected organizations as the American Lung Association, the American Cancer Society, the American Heart Association, United Way, and other major, usually non-political public charities. It seems they all had received a "legal opinion" (the ultimate source of which is unclear) stating that 226 potentially threatened their donations: specifically those automatically deducted, as many are, from employee paychecks. How? These organizations all had lobbying arms, did they not? 226 said money should not be deducted from paychecks for "political purposes." Lobbying is "political," they were told so, *voilà*, these paycheck donations could take a severe hit — except that 226 clearly stated it defined "political purposes" according to California's Fair Political Practices Act, limiting its applicability to election-related activity, and leaving lobbying out.

Others were fed similar distortions. Insurance

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Companies, for instance, were informed that their political activities placed in jeopardy the practice of automatic paycheck deduction payments for health or other forms of insurance — as if a payment for service could be construed as a "political expenditure," as defined in state law, because the recipient engaged in politics.

This is major league disinformation, precision-targeted to relatively small subsections of the electorate, and indicates the infinite pains this particular Goliath will take — and can afford to take, given all the free money — to try to deflect David's small but well-aimed pebble.

I asked a veteran Sacramento political strategist how he would run an anti-Prop. 75 campaign today, given unlimited money to spend and stiff opposition to the union position within its own voter base. "First," he said, "I would buy up the market — not just as much of the available TV and radio as possible, but newspapers — dailies, weeklies, whatever — and anything else I could think of to keep the opposition message from being heard. Next, I would survey the state, asking each voting block about a long list of 'hot button' issues: guns, abortion, education, taxes — I'd cover every top issue. Then I would tie Prop. 75 to the unpopular position on whatever issue registered top priority in messages to each group. It would be a regional campaign, with local teachers warning their neighbors that 75 would bring Armageddon on whatever concerned them most. The message for urban areas would be different from rural, Central Valley people might hear the opposite of what inner city people heard. I would seek to baffle the measure's supporters with the sheer volume of the repeated criticisms."

Several factors not present in 1998 should help mitigate the unions' bottomless warchest advantage, chiefly conservatives' much-improved ability to reach very large audiences *via* talk radio and the Internet and the presence of a once-(and potentially once again) charismatic champion in the governor's office. But, of course, these weapons will have to be deployed. Perhaps the Schwarzenegger operation's biggest miscalculation, by the way, as *CPR* Contributing Editor Assemblyman Ray Haynes has suggested, was its decision when this battle began taking shape *not* to insure qualification of a proposed initiative to finish off the idea of drivers licenses for illegal aliens once and for all. Along with parental notification for minors' abortion, *that* hot-button issue on the ballot would have energized both the talk radio world and the GOP's conservative base to maximum intensity. There's nothing like 20/20 hindsight.

Schwarzenegger still scares the left. The reason the unions spent so much to bring down his numbers was precisely to keep any eventual endorsement from winning the day for paycheck protection. Some conservatives privately hope he does *not* endorse the measure for this very reason, although everyone hopes he will quietly help raise the $15 to $20 million required for a really substantial statewide TV campaign.

The Schwarzenegger team, of course, says reports of the governor's demise are much overstated. Administration figures appear convinced the union/Democrat artillery pounding has fired every shot it has and has wounded, but not brought down, this governor who, they say, will revive as soon as the post-Labor Day campaign kicks into gear. Administration sources are said to be circulating internal polling showing the governor's ratings already climbing again as of August. And the governor himself reportedly told GOP legislators he considers paycheck protection what the election "is all about." No one doubts Schwarzenegger's ability to command the spotlight. But his role in the election's outcome still depends on his overcoming the sense of directionlessness that has bogged down the once powerful Governator Juggernaut most of the year. Recent moves by the governor's Chief of Staff Pat Clarey and Communications Director Rob Stutzman from the administration to a formal campaign organization indicate things may now begin to happen.

A final, critical element in this fight is the of-

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ten forgotten grass roots organizations of both parties. For the Democrats, their most formidable get-out-the-vote mechanism is, of course, big labor. But given 75's majority support among likely Democrat voters (according to Field) and 50 percent backing in their own rank-and-file membership, a lot of base-securing will be required (and will consume significant portions of their vast funding) before GOTV will do the left more good than harm.

California Republicans' ongoing rebuilding of their county parties has another test to pass in this year's special. The state GOP voted to spend significant dollars on Special Election get-out-the-vote operations, giving particular emphasis to long-neglected, but recently reviving Los Angeles County. The eternal battle between Sacramento consultants who love statewide media campaigns (that bring sweet commissions) and grass roots activists who want more funding for the door-to-door ground game (which bring consultants *no* commissions) appears again to be hobbling action, but the CRP vote is a highly encouraging sign for the ground-gamers.

Ron Nehring's powerful San Diego County party, in addition to the ballot measures, will have a mayor's race and a couple of city council elections to stimulate volunteer and GOP voter enthusiasm. San Bernardino and Riverside counties are said to be putting together stronger than ever operations, all of which leaves statewide resources more free than otherwise to supply the grand-daddy of all the counties, L.A.

Los Angeles still has more Republican voters than any other California county. Once upon a time, Orange County provided Republican majorities so large they compensated for GOP neglect of the mega-county to the north. No more. Fortunately, for several years now under Linda Boyd's chairmanship, great strides have been made in organizing Los Angeles. The Party recruited captains for 4,500 of the county's 8,000 precincts for last year's presidential election, assigning them in "priority" precincts: those having 100 or more registered Republicans. They are returning to that list as well as the Schwarzenegger volunteer list for this year's captains.

Three "high priority" precinct walks are planned: one in late September, knocking on doors of Republican absentee voters just before absentee ballots hit ("Fifty percent of absentee ballots are returned within 24 hours," Chairman Boyd said, "so we talk to them the weekend before."), a second door-knocking walk in priority precincts the last weekend of October to "middle-level" propensity Republican voters, and a final walk just before or on election day, with the normal election-day GOTV drill of poll watching, voter chauffeuring, and so forth. Turn out, as in any election, is the ball game. Most observers now predict low participation this year, the state's fourth major election in four years.

Administration sources are said to be circulating internal polling showing the governor's ratings already climbing again as of August.

Prop. 75's 13 percent undecided voters are a smaller portion of the electorate than the 22 percent Field found not yet sure about redistricting or the 16 percent with no opinion on the governor's budget initiative. That's good news for proponents who have the easier job of holding a 5-point majority "yes" electorate rather than having to win over a lot of still-undecided voters. Still, in-depth polling indicates neither "yes" nor "no" voters on Prop. 75 are sufficiently firm in their convictions to be taken for granted. This David and Goliath election will be won, and lost, in the actual campaigns. CPR

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The Pestilence *du jour*

210 million lawsuits a year!

by Gregory Sanford

Proposition 79

Ambulance chasers dreaming the impossible dream

California's more than 30 million people fill 210 million prescriptions every year. How would you like to have a lawsuit filed for every one of those prescriptions? Unbelievable? Fantastic? Remember, trial lawyers don't get rich by thinking small. They've come up with a ballot measure — Proposition 79, on the November ballot — that, theoretically at least, could grow new lawsuits in groves as thick as all those millions of prescriptions. For trial lawyers, this is the stuff dreams are made of. Of course the rest of California, especially ordinary people who work for a living, will foot the bill, but, well, as they say in Hollywood, that's show biz.

Proposition 79, for the record, is a prescription drug measure (sponsored by Democrats' other major fund-supplying pressure group: public employee unions) one of the provisions of which gives trial lawyers virtual *carte blanch* to sue drug manufacturers, distributors, and labelers over the price of any drug sold in California. All the personal injury lawyer has to do is say drug prices are "unconscionable" or that drug and biotech company profits are "unjust or unreasonable," terms included in the initiative but conveniently left undefined.

To be fair, a reasonable definition would be a little difficult to arrive at. Economics One, of course, teaches that price is the product of supply and demand, kept in line in a free market by competition among suppliers, competition that enables buyers to hunt for the lowest price. But thanks to decades of "compassion," the medical world resembles anything but a free market; rather it's more like a jungle in which ten thousand government mandates and perverse tax policies leave both health care providers and consumers precious little wiggle room to negotiate about price. The system is tied in knots, which is the way trial lawyers like it because the knots create all sorts of trouble for people who then must go to lawyers to untie them.

But under Prop. 79, the lawyers have dispensed even with the need of finding a client in trouble. It allows them to appoint themselves "private attorneys general," which means they can file lawsuits "on behalf of themselves and the general public" — that's you and me, but we won't be asked permission when they file. It means they won't need evidence, clients, or even proof of harm to file a lawsuit. And no client, of course, means the lawyer keeps all the money at the end.

There's just one thing they need us for: to pay for it all. The expense that companies will be forced to incur to document their pricing, expenses, and revenues, and defend themselves in court will be astronomical. That will be covered by higher prices — there's no other way. Rather than accept the risk of such potentially astronomical judgment awards, many defendants will choose to settle, so no one will know whether Prop. 79 was violated or not. It won't matter because the point is to transfer money from ordinary people to parasitic personal injury lawyers, and that will have happened. The cost will be covered by higher prices — there's no other way.

And all these new lawsuits will add a massive new burden to our already over-worked court system. Former legislative analyst William G. Hamm, Ph.D., said the proposition "is certain to spawn a torrent of lawsuits ... many of them frivolous. The increased number of suits will impose heavy costs on California's General Fund-supported trial courts. These costs will amount to millions of dollars" — costs that will be paid by higher taxes, or cut-backs in other government services —

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there's no other way. And all this fun in the court room will discourage research and development of new drugs. *That* cost will be covered by more people getting sick, staying sick longer, and dying. There's no other way.

California voters probably thought they stopped precisely these kinds of frivolous lawsuits when they passed Proposition 64 last November, which limited filing of lawsuits "on behalf of the general public" to the state attorney general alone. But, you know, it is hard to shame trial lawyers. Faced with this plain, unmistakable rejection of their methods by the people of California, the attorneys have come back with exactly the same corrupt idea in a new package this year. Prop. 79 is *chutzpah* defined.

So let's see: Prop. 79 — thousands of frivolous lawsuits, more court delays for everyone really needing legal help, sabotage of California's thriving biotech industry, prescription drug prices driven skyward, tax hikes encouraged, development of new cures put on hold, and attorneys encouraged to become even more arrogant than they already are. I can hardly think of a single reason anyone should vote no — can you? CPR

Spirit of the Recall

(Continued from page 23)

playing field basically to themselves. So, now, the thinking goes, the governor's poll numbers — and those of his favored propositions — have nowhere to go but up ... once their side of the story is told to the voters. Add that factor to what at least used to be a GOP turn-out advantage in special elections, and the otherwise strange phenomenon of GOP optimism and Democrat pessimism begins to make some sense.

The other wild cards in the mix remain "paycheck protection" and "parental consent" — two conservative, but non-Schwarzenegger, initiatives also on the November 8 ballot. Defeating "paycheck protection" is Priority One of the Democrat/union spending machine. They will sacrifice all other objectives — including defeat of any other proposition on the ballot — to insure this one (which ends the unions' ability to take workers' money more or less at will to finance politics) goes down. Yet right now the measure enjoys a wide lead in the polls, drawing support even from Democrats and union households. Massive Democrat/union resources will be diverted from every other battle to shore up the base against paycheck protection, and further massive resources will then have to be spent to try to defeat the popular measure among the rest of the state's voters. And since the governor has not officially endorsed the proposition, the Democrats will not have him to use as the straw man in their campaign.

As to wild card number two, the parental consent initiative should draw socially conservative voters to the polls to vote for it. It requires no great leap of faith to see most of them siding with the governor and the GOP on the rest of the ballot.

So while the situation certainly is not ideal for "Team Schwarzenegger," realistic paths to victory exist. The governor shares Churchill's affinity for cigars and martinis — if not his command of English. When asked his mood, those closest to him often use the words "serene" and "confident" — coincidentally words used about Churchill during the darkest days of WWII.

Of course, Churchill had six years to win his war. Schwarzenegger has two months. These last eight weeks will be an epic struggle; their outcome will determine California's political future. The battle of California is on. CPR

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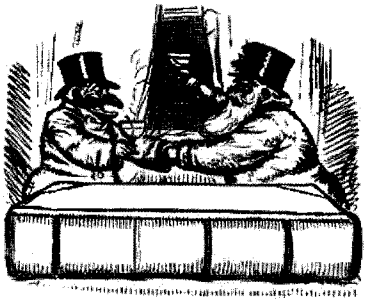

CRITICUS

Of Saltimbancoes, Quacksalvers, Charlatans, and Mountebanks

BY G.B. TENNYSON

Saltimbanco: a mountebank, a quack. Quacksalver: a pretender to knowledge or of wonderful remedies. Charlatan: a cozener, a pretentious imposter. Mountebank: a charlatan, a quack(salver).

— "Saltimbancoes, Quacksalvers, and Charlatans," Sir Thomas Browne, *Pseudodoxia Epidemica* (or, *Vulgar Errors),* 1646.

IF SUMMER comes, can the annual Critical roundup of the acts of the foolish and the fraudulent be far behind? Assuredly not. Thus, herewith this year's collection of the follies and fooleries in the culture that have come to Critical attention, especially during the summer Silly Season. The culprits are the modern-day equivalent of the types that form the title of this piece.

G.B. Tennyson remembers that it was Lord Nelson who created the expression "England expects that every man will do his duty." Criticus believes it is his duty to scan the media, and sometimes the skies, to bring readers the latest stupidities from the front lines of modern culture.

PC on the March

FRIGHTENING THE HORSES

An Oxford University student towards the end of a night out celebrating completion of his English literature degree asked a mounted police officer if he knew that his horse was homosexual. The student was instantly handcuffed, taken to the police station, forced to spend the night in jail, and dispatched in the morning with a fine. It is not clear what he was charged with, presumably public homophobia. He is contemplating legal action. No word on what the horse thinks.

EBONICS ONCE AGAIN

No doubt all readers heard of the adoption by the San Bernardino County Board of Education of a policy to introduce the use of "Ebonics" (*i.e.*, black street

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The Seminole Tribe itself fully supports the use of the Seminole name .... Mike Downey in the* Chicago Tribune *did a comic piece about getting rid of Notre Dame's bellicose leprechaun.

talk, or by some politically correct linguists "African-American Vernacular English") into the teaching in public schools. The absurdity of this is self-evident, but the rationale given is even more absurd. It is to improve black student achievement to insure that more black students will go on to college. Quite. And to top it all, the educational bureaucratese San Bernardino County employs to describe the pilot program of this policy is "Students Accumulating New Knowledge Optimizing Future Accomplishment Initiative." Catchy, what?

MORE RACIST NEWS

The modern obsession with race is such that one can hardly keep up with the reports of racist outrages everywhere in the world. Here are some:

Memin: Surely everyone saw the extensive coverage of the "racially offensive" stamps that the Mexican government issued in June. The first group in a series celebrating Mexican cartoon characters featured one Memin Pinguin, described in the *L.A. Times* as "a picaresque urban child who gets by on wits and moxie." The problem is that little black Memin looks very like a caricature in the style of the old minstrels. The curious part is that it was American civil rights groups, including of course that all-purpose protestor Jesse Jackson, that decried the stamps and demanded an apology as well as the withdrawal of the stamps. The Mexican government refused, and in any case the stamps sold out in days and are now collector's items. What is most intriguing to Criticus is that certain Americans felt entitled to tell a foreign government what kind of stamps that government could issue. Cultural imperialism, I call it.

Sambo: Of course, Criticus ought not to have been surprised. He knew that years ago Helen Bannerman's *Little Black Sambo* had been effectively banned in the United States because it was thought to be offensive to blacks, the reasons being both because Sambo had long been taken as a derogatory name for a black male and because American illustrations of the book often depicted Sambo as a caricature of a black boy. It is not at all clear whether Bannerman, a Scot living in British India in the nineteenth century, was aware of the negative aspects of the word Sambo. Her character is an Indian boy, and we must remember that the British typically referred (and many still do) to dark-skinned people in general as black. (See Kipling's "Gunga Din.") Nevertheless, the character has been taken in America to be black as in Negro, just as many seem to be unaware that there are no tigers in Africa but there are tigers in India.

All that is interesting enough, but what Criticus did not know was that American pressure in 1988 against the existence of a Japanese edition of *Sambo* led in turn to pressure from the Japanese Foreign Ministry on the publishers to withdraw the book. The deed was done in less than a week, and *Sambo* disappeared from Japanese view. Well, Friends of *Sambo,* know that in Japan *Sambo* was gone but not forgotten. In April this year the book was reissued in Japan and immediately rose to the top of the adult *[sic]* fiction bestseller list. Adults remembered it fondly and wanted to introduce it to their children. What will happen when the civil rights lobby finds out about this? Will Japan join Mexico in saying mind your own business, you believers in freedom of the press, or will *Sambo* once again be withdrawn? I'll try to keep on top of this for Constant Readers. Stay tuned.

World Cultures: Finally, on the race front, know that a zoo in the German city of Augsburg has been reviled and threatened with attack because it staged a festival of African culture, showcasing tribal dances and the like in an effort to "bring African culture and products closer to the people." The offence in this case? They placed the display next to a baboon enclosure.

GO SEMINOLES!

Critics has several times had his say on the matter of school mascots that supposedly offend American Indian groups, but the issue never seems to go away. Everyone will have heard of the recent edict from the NCAA that will prohibit the display of eighteen American Indian nicknames and mascots that it considers "hostile or abusive" in postseason tournaments starting early in 2006. This was greeted with praise in the usual quarters, which included a huge spread on

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the first of the Sunday sports pages of the *Los Angeles Times* featuring a large color photo of a white man made up as Florida's Seminole mascot and a fawning article in praise of the ban by major *Times* sportswriter Bill Plaschke. This is a step towards the future banning of these "abusive" nicknames and mascots altogether for NCAA events starting 2008. For now, they only must cover up the offending signs rather like strippers wearing pasties. What happens if there is a wardrobe malfunction?

BUT HARK! Not all agree with the ban, chief among them (pardon the pun) being the Florida Seminoles. The trustees of Florida State have voted to appeal the decision, pointing out that the Seminole Tribe itself fully supports the use of the Seminole name and all the signs and symbols that go with it. The trustees are prepared to take court action if the appeal to the NCAA is turned down. Florida State is not alone. Criticus notes that in the "Morning Briefing" column by Pete Thomas inside the sports section of the *Times* we learn that Mike Downey in the *Chicago Tribune* did a comic piece about getting rid of Notre Dame's bellicose leprechaun. Also from Thomas we read of a *Playboy* survey of 768 Native Americans in which 90 percent said they were not offended by the name of the Washington Redskins. Moreover, it looks as though the fans are not persuaded of the horror of mascots either. By the Saturday sports pages when they run letters to the editor on sports a chorus of dissent from the NCAA-Plaschke view dominated the letters. Fans lambasted Plaschke for his arrogance and ignorance (he knows nothing about mascots or Indians) and generally deplored the whole business of attacking the idea of mascots. They made Criticus seem fainthearted in his criticisms. Is it possible that we have the beginning of an uprising from the people who actually make college football the profitable activity it is?

Of course none of this is likely to stay the hand of the NCAA (headquartered in INDIANapolis), considering that these people are after all part of the academic establishment, which is mainly composed of the Bourbons *de nos jours.* That is to say, they forget nothing and they learn nothing. One battle the antimascoteers are *unlikely* to win, however, is with the professional sports teams. The Redskins of professional football, and the Indians and Braves of professional baseball, are not subject to the whims of the NCAA, and besides they are worth much more money than even collegiate sports and are thus unlikely to jeopardize such wealth by offending loyal fans. If threatened, all they have to do is to bring back the pictures of Jane Fonda in her Ted Turner days doing the "Tomahawk Chop."

FLASH: After the foregoing was written the news came that, in response to a threat to sue from the President of Florida State, the NCAA had removed its ban on the Seminoles as team mascot and the use of Seminole imagery at athletic events. The NCAA suddenly recognized the "unique relationship between the university and the Seminole Tribe of Florida." Time elapsed from the NCAA announcement of the ban and NCAA reversal was 18 days. During the first week of the ban the *Los Angeles Times* ran four articles on the issue, one on the front page of the paper and the Plaschke display story on the front page of the sports section. There was also the page of protesting letters referred to above. Florida State resolved to protest five days after the ban was announced. Twelve days later the ban was lifted. This retreat was reported in the *Times* in a six-paragraph article and a black and white photo of the Seminole mascot on the seventh page of an eight-page sports section. This is not quite a burial but it is a quiet drawing of the curtain on the subject. Let us hope that the remaining seventeen schools on the NCAA list take note. The Illini seem to have good case to make, but Criticus is pulling for Southeastern Oklahoma State. Its teams are called "Savages."

TO THE VICTORS BELONG THE NAMES

FROM EARLIEST times place names were bestowed by the first settlers and changed as others moved in, often by force. Thus the romantic-sounding Byzantium became Constantinople when the emperor Constantine decided to make it the seat of the eastern Roman Empire. When the Islamic Turks swept away most of the Greek inhabitants they also swept away the name of the city and renamed it Istanbul. People have been changing the names of places and even buildings ever since. In recent years we have seen inner-city school districts rename public schools that bore names like Washington and Jefferson in order to replace them with names of contemporary black luminaries, the argument being that the original names were those of slaveholders. Well, the passion for this sort of thing goes on.

MEMPHIS

There is the case of three parks in the city of Memphis — Forrest Park, Confederate Park, and Jefferson Davis Park — each containing statues of Confederate

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heroes, such as the president of the Confederacy and Confederate General Nathan Bedford Forrest. The mayor of Memphis has refused to act on calls that these parks be renamed. But politician that he appears to be, the mayor declared he would ask the city to give the parks to the University of Tennessee and a nonprofit organization helping to develop the city's waterfront. The university has reserved comment until it can review the proposal, but Criticus can see what's coming. The university after all will not come up for re-election.

ISLINGTON

IN THE trendy and leftwing section of north London called Islington (Tony Blair lived there before moving to Downing Street) there is a state supported church school named St. Mary Magdalene that has been there since 1710. The Islington council wants to incorporate the primary part of the school into a new academy for five- to 18-year-olds but wants the word "saint" dropped from the name so that it is clear that "it is a school open to everybody." Parents and teachers are objecting, and rightly so. They should have pointed out that Mary Magdalene started out as far less than a saint, so the name is promising for everybody, even residents of Islington. Prayers for the parents and teachers are herewith requested.

Jefferson Davis

PRETORIA

Back in the world of city name changes, Criticus regrets to report that an official commission of the South African government has changed the name of the country's administrative capital from Pretoria to Tshwane. The move was opposed by Afrikaners and, less predictably, by the native Ndebele tribes in the area. The reason for the change was that the city was named after Andries Pretorius who led the Afrikaners on the "Great Trek" from Cape Town in 1835 to escape British rule and set up their own nation. The city was founded and named in 1855 by Pretorius's son, but to activist South Africans the name, simply because it is that of an Afrikaner, is an unwelcome reminder of the apartheid era. But here is the comic part. Although the local black authorities say that Tshwane was the name for an Ndebele tribal leader and means "we are the same," others contest that meaning, saying that it is pure fabrication and that in any case the name had nothing to do with any tribal chief. Criticus tried to pursue the matter of the meaning and found that, according to one version, the name Tshwane was the name of a river and furthermore that it means "little ape." Remember, I did not make this up.

To counter the comic part, there is also a truly sad part of this story. Pretoria has long been known as the "city of jacarandas" and is awash in their purplish blooms in the spring. These have now also been banned because they are not native to Africa. The government is imposing a $900 fine on any resident who fails to rip out jacaranda seedlings but is allowing for the time being large established trees to remain. Considering that it is now winter in the southern hemisphere, Criticus recommends a trip to Pretoria-Tshwane this autumn (their spring) for what may well be the last sight of thousands of jacarandas in full glory.

The Merely Odd

OUTWITTING THE SMOKE POLICE

The nannying European Union has decreed there may be no more tobacco advertising in Formula One racing. Ferrari has found a loophole in that the "directive applies to cross-border cultural and sporting events." Therefore, Ferrari will still display tobacco ads on its cars in the Grand Prix in Monza, Italy, because it is a national, not a cross-border, event. Hungary has joined the rebellion and passed a law describing all future Formula One races as "events of outstanding economic significance" — which evidently side-steps the ban — rather than as sporting or cultural events. Other teams with tobacco sponsors have taken to subliminal ads, such as outfitting cars with the distinctive red target associated with Lucky Strike but leaving out the brand name.

ANOTHER TEAM with Benson and Hedges as a sponsor now adorns its cars with the slogan "Be on Edge" in lettering like that used on B&H cigarette packages. The moral of the story is that if you overload people with too many intrusive laws and regulations, people will find ways around them.

BEER GARDEN GIRLS

Not that the European Union will be deterred by

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Critical wisdom. Another of its recent decrees demands that those Fräuleins one sees in Germany with their astounding ability to carry massive tankards of beer in each hand and their low-cut dirndl costumes have been ordered to raise the necklines on their costumes to avoid becoming sunburnt on the upper bosom. Yes, from all that eternal sunshine in Germany. One wonders whether those lawgivers in Brussels have ever looked at the truly sunny Mediterranean beaches where bikinis and often no tops at all are commonplace.

THE ADVENTURES OF OPRAH

She may be the richest woman in America or even the world, but Oprah is not universally recognized and therefore does not always prevail. On the elegant Rue du Fauborg St. Honoré in Paris Oprah tried to get the Hermès shop to reopen just after closing time when she arrived. The clerks turned her away, saying they often get "these troublesome North Africans wanting special treatment." Ah, those tolerant French. Of course Oprah is not North African, which may have added to her eagerness to proclaim that she is of Zulu descent in and around that same time but in Johannesburg. She said she had her DNA tested and the results showed she is a Zulu. This baffled her South African audience and was totally rejected by local historians. They pointed out that there was no connection between Zulus and the African slave trade. If any such had been taken as slaves, which is unlikely, they would have been transported to the east by Arab slave traders. Slaves brought to North America were almost entirely from West Africa, thousands of miles from Zulu territory. It would have been commercially counterproductive to have slave ships make the trek from extreme southern Africa to ports on the American east coast. But Oprah is still loved in South Africa. Perhaps we could get her to campaign against the removal of the jacarandas in Pretoria.

WHO WRITES THE SPAM?

Criticus gets what he thinks is more than his share of spam e-mail. Fortunately he has a program that separates spam from regular e-mail by putting the regular in the inbox and the spam in a separate box marked appropriately "junk e-mail," which can be highlighted and deleted in its entirely. Of course some spam still gets through to the inbox and of course the curious Criticus will periodically check the spam to see what the latest miracle cures and the like may be. He has noticed over the years that more and more spam is riddled with spelling errors, chiefly in the subject entries, and that more and more spam will contain in the message itself utterly extraneous lines of text, sometimes consisting of a sequence of unrelated words and other times of actual statements with no connection to the subject of the message. And increasingly the names of the senders have become more and more contrived and absurd and even intentionally comic. Recent examples of this latter chosen almost at random: Atahualpa J. Palaver, Division O. Chowder, Naiad F. Compass, and once even G.B. Tennyson (writing from a different e-mail address, needless to say). And speaking of e-mail addresses the following actually appeared on a piece of spam: *simonbenzalphenylhydrazoneDC2Ne@yahoo.ca.ip.*

The nannying European Union has decreed there may be no more tobacco advertising in Formula One racing. Ferrari has found a loophole ....

WHAT DOES it all mean? For a long time I thought all these spelling errors were probably coming from some outsourced internet sweatshop in India. But surely the Indians wouldn't know who Atahualpa was (the last Inca ruler of Peru, by the way) or think of joining Naiad with Compass or Division with Chowder. And then recently I read somewhere, though I can't remember where, that all these misspellings and unrelated strings of words and sentences were intentionally done to thwart spam-spotting programs, to fool them by making it appear that these were real messages. By and large it doesn't work, at least not with my spam detector; but sometimes they actually slip by and show up in the regular e-mail inbox. Still it's rather a waste of time, for as soon as one opens such a piece of stealth, one sees that it is still spam and one reaches for the delete button. But doubtless spammers are even now working on other ways to get into the inbox and we shall have spam with us even unto the last days.

The Ridiculous and the Sublime

"KISS ME, HARDY"

The British know how to stage a spectacle, and

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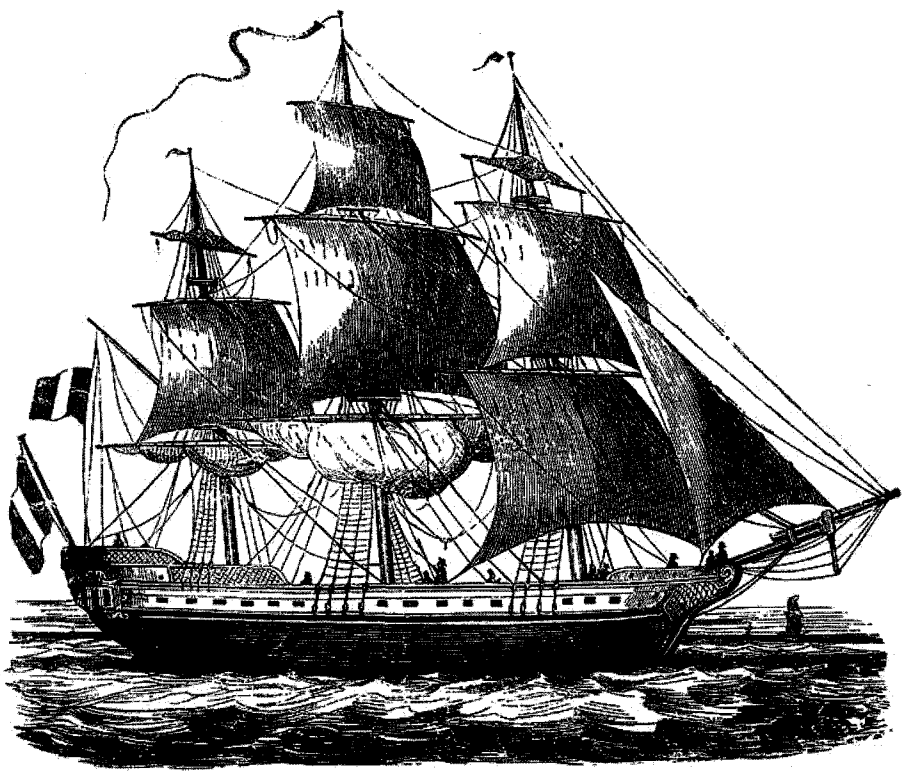
they did themselves proud in June in restaging off the south coast of England the Battle of Trafalgar commemorating the 200th anniversary of that victory.

THE ACTUAL date of the battle was in fact 21 October, but June offered much better weather. Trafalgar was the naval victory of Britain over a larger combined French and Spanish fleet that decisively put an end to Napoleon's hopes of invading England. It also sealed Britain's role as the supreme maritime power in the world, ushering in a century of the Pax Britannica. At the same time it saw the death of Admiral Nelson on the appropriately named HMS Victory a few hours after being shot but when it was clear that the British had won.

It was at the moment of death that Nelson is reported to have said to the captain, "Take care of my dear Lady Hamilton, Hardy, take care of poor Lady Hamilton," and then very faintly, "Kiss me, Hardy," which Hardy did on the cheek. Nelson then said, "Now I am satisfied. Thank God I have done my duty." Thereupon he died. Hardy then knelt again and kissed Nelson on the forehead. Only in after years was the "Kiss me" line challenged, probably from prudery and misapprehension of its meaning, but there were three witnesses who confirmed it. Set in its full context as given here, it seems to Criticus that what Nelson was saying was something akin to "Give me a final blessing," and that it was a salute to life at the moment of death.

The re-enactment of the battle brought more than a hundred warships from countries all around the world as well as a huge gathering of tall ships and countless private vessels. It was the largest massing of ships off the coast of England since the Allied D-Day invasion in 1944. On shore a quarter of a million people gathered to watch the re-enactment. There was only one thing that was ridiculous in the face of all the sublime pomp. In order not to offend the French, it was determined that the battle would be staged as between the red ships and the blue ships with no nationalities being mentioned. This made it sound like summer camp — "Red Rover, come over" — with the red team and the blue team. Needless to say, no one paid any attention to this tomfoolery, except possibly Jacques Chirac and those across the channel that the British call after the name of an amphibian. Besides, what do French and Spanish visitors to London think Trafalgar Square and Nelson's column are all about? CPR



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